

AMENDED IN ASSEMBLY AUGUST 14, 2006

AMENDED IN ASSEMBLY JUNE 8, 2006

AMENDED IN SENATE JANUARY 4, 2006

**SENATE BILL**

**No. 286**

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**Introduced by Senator Lowenthal**

February 16, 2005

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An act to amend Sections 65301, 65583, 65583.1, 65583.2, ~~65588, and 65589.5~~ and 65588 of the Government Code, to amend Sections 17021.6, 18027.3, 18552, 18909, 19163.5, 19851, 33760, 34312, 50517.5, 50530.5, and 52080 of, to amend and renumber Section 50558 of, and to repeal Section 18934.6 of, the Health and Safety Code, and to amend ~~Section 17058~~ *Sections 12206, 17058, and 23610.5* of the Revenue and Taxation Code, relating to housing.

LEGISLATIVE COUNSEL'S DIGEST

SB 286, as amended, Lowenthal. Housing.

(1) The Planning and Zoning Law requires each city, county, or city and county to prepare and adopt a general plan for its jurisdiction that contains certain mandatory elements, including a housing element. One part of the housing element is an assessment of housing needs and an inventory of resources and constraints relevant to meeting those needs.

The Planning and Zoning Law specifies the dates of revision for the housing element and prescribes the time periods for the submission of draft and adopted local general plan housing elements to the Department of Housing and Community Development and for the review of those elements by the department. That law also authorizes the department to allow a city or county to substitute the provision of

units for up to 25% of its obligation to identify adequate sites for any income category in its housing element if specified criteria are met.

The Planning and Zoning Law refers to the California Environmental Quality Act when it defines “use by right.”

~~The Planning and Zoning Law prohibits a local agency from disapproving an affordable housing development project or conditioning its approval of the project unless it makes certain findings:~~

This bill would delete obsolete references and make technical nonsubstantive changes to those provisions.

The bill would also make other conforming changes to these provisions.

(2) The Employee Housing Act deems employee housing providing accommodations for 12 or fewer employees an agricultural land use for designated purposes.

This bill would make a conforming change to those provisions.

(3) The Mobilehomes—Manufactured Housing Act of 1980 defines “recreational vehicle” as including certain motor homes, travel trailers, truck campers, and camping trailers and requires them to comply with specified standards of the American National Standards Institute if they are sold, rented, or leased within the state.

This bill would include a standard of the National Fire Protection Association in this requirement.

(4) Existing law allows a manufactured home and a cabana that does not have the capacity to resist the minimum snow load established for residential buildings by local ordinance to be installed in a mobilehome park above 5,000 feet in elevation if certain conditions are met.

This bill would allow that installation above 4,000 feet instead and would allow an accessory building or structure that meets the same conditions as a manufactured home also to be installed at that elevation. The bill would state the intent of the Legislature that regulations adopted by the Department of Housing and Community Development to implement and interpret these changes be deemed editorial changes pursuant to the Administrative Procedure Act if those regulations are amendments, repeals, or adoptions that are substantially the same as the statutory changes enacted by this act.

(5) The State Building Standards Law provides that the definition of “building standard” does not include, among other things, any regulation, rule, or order or standard that pertains to a recreational

vehicle park, temporary recreational vehicle park, or travel trailer park, except as specified.

This bill would instead provide that “building standard” does not include any regulation, rule, or order or standard that pertains to a special occupancy park.

(6) Existing law requires the Building Standards Commission to adopt, approve, codify, and publish by reference in the California Building Standards Code specified building standards of the Uniform Code for Building Conservation of the International Conference of Building Officials.

This bill would delete a duplicate provision.

(7) Existing law authorizes a city, city and county, or county to establish higher standards for the seismic retrofit of certain structures or buildings, including hospitals and other medical facilities having surgery or emergency treatment areas, that are needed for emergency purposes after an earthquake, except as otherwise provided in the Alfred E. Alquist Hospital Facilities Seismic Safety Act of 1983.

This bill would update a cross reference to the Alfred E. Alquist Hospital Facilities Seismic Safety Act of 1983.

(8) Existing law requires the building department of a city or county to maintain an official copy of the building plans for every building for which it issued a permit and requires a department that is requested to duplicate the official copy of the plans it maintains to request written permission, by registered mail, to do so from the certified, licensed, or registered professional, or his or her successor, if any, who signed the original documents and from the original or current owner of the building or, if the building is part of a common interest development, from the board of directors or other governing body of the association established to manage the common interest development.

This bill would allow the building department’s request for written permission also to be made by certified mail.

(9) Existing law requires the Department of Housing and Community Development to establish the Joe Serna, Jr. Farmworker Housing Grant Program under which grants or loans are made to local public entities, nonprofit corporations, and limited partnerships for the construction or rehabilitation of housing for agricultural employees and their families.

This bill would authorize the loans to be made also to limited liability companies and make conforming changes.

(10) Existing law authorizes a redevelopment agency~~and~~, a housing authority, *a city, and a county* to issue bonds to provide financing for the acquisition, construction, rehabilitation, refinancing, or development of units reserved for occupancy by low- or very low income households and financed with proceeds of the bonds issued on or after January 1, 2006 *or, in the case of a city or county, on or after January 1, 1991, and requires when the qualifying project period expires or terminates, that the units remain available to eligible households occupying the units until one of specified alternatives occurs.*

This bill would also apply these provisions to *units financed with the proceeds of bonds~~refunded~~ refinanced, as specified, on or after January 1, 2006.*

(11) Existing law requires the former Commission of the Department of Housing and Community Development to prepare and adopt minimum standards regulating the use and application of cellular concrete, as specified.

This bill would renumber this provision and transfer responsibility to the department.

(12) Existing law authorizes any city or county to issue revenue bonds on or after January 1, 1991, for the purpose of providing financing for multifamily rental housing, and capital improvements related to that housing.

This bill would also apply these provisions to bonds refunded on or after January 1, 1991.

(13) The Personal Income Tax Law, in modified conformity to federal income tax laws, allows taxpayers a credit against the taxes imposed by that law for providing low-income housing, and requires the California Tax Credit Allocation Committee to allocate the credit in accordance with specified criteria. Property “at risk of conversion” is defined for these purposes as property that, among other things, is a multifamily rental housing development in which at least 50% of the units receive certain governmental assistance, including the low-income housing credit program set forth in a specified provision of the federal Internal Revenue Code provided the property is ineligible to receive an allocation of tax exempt private activity mortgage revenue bonds from the California Debt Limit Allocation Committee. *Pursuant to this definition of property “at risk of conversion,” the restrictions on rent and income levels must terminate, or the federal insured mortgage on the property must be*

*eligible for prepayment, anytime within 5 calendar years after the year of application to the California Tax Credit Allocation committee.*

*This bill would delete from the governmental assistance that 50% of the units in a multifamily rental housing development can receive through the low-income housing credit program the requirement that the property be ineligible for an allocation of tax exempt private activity mortgage revenue bonds from the California Debt Limit Allocation Committee in order for the multifamily rental housing development to qualify as receiving governmental assistance through the low-income housing credit program and would provide that the termination of restrictions on rent and income levels and the eligibility on prepayment occur within 5 years before or after the date of application to the California Tax Credit Allocation Committee.*

Vote: majority. Appropriation: no. Fiscal committee: no.  
State-mandated local program: no.

*The people of the State of California do enact as follows:*

1 SECTION 1. Section 65301 of the Government Code is  
2 amended to read:

3 65301. (a) The general plan shall be so prepared that all or  
4 individual elements of it may be adopted by the legislative body,  
5 and so that it may be adopted by the legislative body for all or  
6 part of the territory of the county or city and any other territory  
7 outside its boundaries that in its judgment bears relation to its  
8 planning. The general plan may be adopted in any format deemed  
9 appropriate or convenient by the legislative body, including the  
10 combining of elements. The legislative body may adopt all or  
11 part of a plan of another public agency in satisfaction of all or  
12 part of the requirements of Section 65302 if the plan of the other  
13 public agency is sufficiently detailed and its contents are  
14 appropriate, as determined by the legislative body, for the  
15 adopting city or county.

16 (b) The general plan may be adopted as a single document or  
17 as a group of documents relating to subjects or geographic  
18 segments of the planning area.

19 (c) The general plan shall address each of the elements  
20 specified in Section 65302 to the extent that the subject of the  
21 element exists in the planning area. The degree of specificity and  
22 level of detail of the discussion of each element shall reflect local

1 conditions and circumstances. However, this section shall not  
2 affect the requirements of subdivision (c) of Section 65302, nor  
3 be construed to expand or limit the authority of the Department  
4 of Housing and Community Development to review housing  
5 elements pursuant to Section 65585 of this code or Section 50459  
6 of the Health and Safety Code.

7 The requirements of this section shall apply to charter cities.

8 SEC. 2. Section 65583 of the Government Code is amended  
9 to read:

10 65583. The housing element shall consist of an identification  
11 and analysis of existing and projected housing needs and a  
12 statement of goals, policies, quantified objectives, financial  
13 resources, and scheduled programs for the preservation,  
14 improvement, and development of housing. The housing element  
15 shall identify adequate sites for housing, including rental  
16 housing, factory-built housing, and mobilehomes, and shall make  
17 adequate provision for the existing and projected needs of all  
18 economic segments of the community. The element shall contain  
19 all of the following:

20 (a) An assessment of housing needs and an inventory of  
21 resources and constraints relevant to the meeting of these needs.  
22 The assessment and inventory shall include all of the following:

23 (1) An analysis of population and employment trends and  
24 documentation of projections and a quantification of the  
25 locality's existing and projected housing needs for all income  
26 levels. These existing and projected needs shall include the  
27 locality's share of the regional housing need in accordance with  
28 Section 65584.

29 (2) An analysis and documentation of household  
30 characteristics, including level of payment compared to ability to  
31 pay, housing characteristics, including overcrowding, and  
32 housing stock condition.

33 (3) An inventory of land suitable for residential development,  
34 including vacant sites and sites having potential for  
35 redevelopment, and an analysis of the relationship of zoning and  
36 public facilities and services to these sites.

37 (4) An analysis of potential and actual governmental  
38 constraints upon the maintenance, improvement, or development  
39 of housing for all income levels and for persons with disabilities  
40 as identified in the analysis pursuant to paragraph (6), including

1 land use controls, building codes and their enforcement, site  
2 improvements, fees and other exactions required of developers,  
3 and local processing and permit procedures. The analysis shall  
4 also demonstrate local efforts to remove governmental  
5 constraints that hinder the locality from meeting its share of the  
6 regional housing need in accordance with Section 65584 and  
7 from meeting the need for housing for persons with disabilities  
8 identified pursuant to paragraph (6).

9 (5) An analysis of potential and actual nongovernmental  
10 constraints upon the maintenance, improvement, or development  
11 of housing for all income levels, including the availability of  
12 financing, the price of land, and the cost of construction.

13 (6) An analysis of any special housing needs, such as those of  
14 the elderly, persons with disabilities, large families, farmworkers,  
15 families with female heads of households, and families and  
16 persons in need of emergency shelter.

17 (7) An analysis of opportunities for energy conservation with  
18 respect to residential development.

19 (8) An analysis of existing assisted housing developments that  
20 are eligible to change from low-income housing uses during the  
21 next 10 years due to termination of subsidy contracts, mortgage  
22 prepayment, or expiration of restrictions on use. "Assisted  
23 housing developments," for the purpose of this section, shall  
24 mean multifamily rental housing that receives governmental  
25 assistance under federal programs listed in subdivision (a) of  
26 Section 65863.10, state and local multifamily revenue bond  
27 programs, local redevelopment programs, the federal Community  
28 Development Block Grant Program, or local in-lieu fees.  
29 "Assisted housing developments" shall also include multifamily  
30 rental units that were developed pursuant to a local inclusionary  
31 housing program or used to qualify for a density bonus pursuant  
32 to Section 65916.

33 (A) The analysis shall include a listing of each development  
34 by project name and address, the type of governmental assistance  
35 received, the earliest possible date of change from low-income  
36 use and the total number of elderly and nonelderly units that  
37 could be lost from the locality's low-income housing stock in  
38 each year during the 10-year period. For purposes of state and  
39 federally funded projects, the analysis required by this

1 subparagraph need only contain information available on a  
2 statewide basis.

3 (B) The analysis shall estimate the total cost of producing new  
4 rental housing that is comparable in size and rent levels, to  
5 replace the units that could change from low-income use, and an  
6 estimated cost of preserving the assisted housing developments.  
7 This cost analysis for replacement housing may be done  
8 aggregately for each five-year period and does not have to  
9 contain a project-by-project cost estimate.

10 (C) The analysis shall identify public and private nonprofit  
11 corporations known to the local government which have legal  
12 and managerial capacity to acquire and manage these housing  
13 developments.

14 (D) The analysis shall identify and consider the use of all  
15 federal, state, and local financing and subsidy programs which  
16 can be used to preserve, for lower income households, the  
17 assisted housing developments, identified in this paragraph,  
18 including, but not limited to, federal Community Development  
19 Block Grant Program funds, tax increment funds received by a  
20 redevelopment agency of the community, and administrative fees  
21 received by a housing authority operating within the community.  
22 In considering the use of these financing and subsidy programs,  
23 the analysis shall identify the amounts of funds under each  
24 available program which have not been legally obligated for  
25 other purposes and which could be available for use in preserving  
26 assisted housing developments.

27 (b) (1) A statement of the community's goals, quantified  
28 objectives, and policies relative to the maintenance, preservation,  
29 improvement, and development of housing.

30 (2) It is recognized that the total housing needs identified  
31 pursuant to subdivision (a) may exceed available resources and  
32 the community's ability to satisfy this need within the content of  
33 the general plan requirements outlined in Article 5 (commencing  
34 with Section 65300). Under these circumstances, the quantified  
35 objectives need not be identical to the total housing needs. The  
36 quantified objectives shall establish the maximum number of  
37 housing units by income category that can be constructed,  
38 rehabilitated, and conserved over a five-year time period.

39 (c) A program which sets forth a five-year schedule of actions  
40 the local government is undertaking or intends to undertake to



1 implement the policies and achieve the goals and objectives of  
2 the housing element through the administration of land use and  
3 development controls, provision of regulatory concessions and  
4 incentives, and the utilization of appropriate federal and state  
5 financing and subsidy programs when available and the  
6 utilization of moneys in a low- and moderate-income housing  
7 fund of an agency if the locality has established a redevelopment  
8 project area pursuant to the Community Redevelopment Law  
9 (Division 24 (commencing with Section 33000) of the Health and  
10 Safety Code). In order to make adequate provision for the  
11 housing needs of all economic segments of the community, the  
12 program shall do all of the following:

13 (1) Identify actions that will be taken to make sites available  
14 during the planning period of the general plan with appropriate  
15 zoning and development standards and with services and  
16 facilities to accommodate that portion of the city's or county's  
17 share of the regional housing need for each income level that  
18 could not be accommodated on sites identified in the inventory  
19 completed pursuant to paragraph (3) of subdivision (a) without  
20 rezoning, and to comply with the requirements of Section  
21 65584.09. Sites shall be identified as needed to facilitate and  
22 encourage the development of a variety of types of housing for  
23 all income levels, including multifamily rental housing,  
24 factory-built housing, mobilehomes, housing for agricultural  
25 employees, emergency shelters, and transitional housing.

26 (A) Where the inventory of sites, pursuant to paragraph (3) of  
27 subdivision (a), does not identify adequate sites to accommodate  
28 the need for groups of all household income levels pursuant to  
29 Section 65584, the program shall identify sites that can be  
30 developed for housing within the planning period pursuant to  
31 subdivision (h) of Section 65583.2.

32 (B) Where the inventory of sites pursuant to paragraph (3) of  
33 subdivision (a) does not identify adequate sites to accommodate  
34 the need for farmworker housing, the program shall provide for  
35 sufficient sites to meet the need with zoning that permits  
36 farmworker housing use by right, including density and  
37 development standards that could accommodate and facilitate the  
38 feasibility of the development of farmworker housing for low-  
39 and very low income households.

1 (2) Assist in the development of adequate housing to meet the  
2 needs of low- and moderate-income households.

3 (3) Address and, where appropriate and legally possible,  
4 remove governmental constraints to the maintenance,  
5 improvement, and development of housing, including housing for  
6 all income levels and housing for persons with disabilities. The  
7 program shall remove constraints to, and provide reasonable  
8 accommodations for housing designed for, intended for  
9 occupancy by, or with supportive services for, persons with  
10 disabilities.

11 (4) Conserve and improve the condition of the existing  
12 affordable housing stock, which may include addressing ways to  
13 mitigate the loss of dwelling units demolished by public or  
14 private action.

15 (5) Promote housing opportunities for all persons regardless of  
16 race, religion, sex, marital status, ancestry, national origin, color,  
17 familial status, or disability.

18 (6) Preserve for lower income households the assisted housing  
19 developments identified pursuant to paragraph (8) of subdivision  
20 (a). The program for preservation of the assisted housing  
21 developments shall utilize, to the extent necessary, all available  
22 federal, state, and local financing and subsidy programs  
23 identified in paragraph (8) of subdivision (a), except where a  
24 community has other urgent needs for which alternative funding  
25 sources are not available. The program may include strategies  
26 that involve local regulation and technical assistance.

27 (7) Include an identification of the agencies and officials  
28 responsible for the implementation of the various actions and the  
29 means by which consistency will be achieved with other general  
30 plan elements and community goals. The local government shall  
31 make a diligent effort to achieve public participation of all  
32 economic segments of the community in the development of the  
33 housing element, and the program shall describe this effort.

34 SEC. 3. Section 65583.1 of the Government Code is amended  
35 to read:

36 65583.1. (a) The Department of Housing and Community  
37 Development, in evaluating a proposed or adopted housing  
38 element for substantial compliance with this article, may allow a  
39 city or county to identify adequate sites, as required pursuant to  
40 Section 65583, by a variety of methods, including, but not

1 limited to, redesignation of property to a more intense land use  
2 category and increasing the density allowed within one or more  
3 categories. The department may also allow a city or county to  
4 identify sites for second units based on the number of second  
5 units developed in the prior housing element planning period  
6 whether or not the units are permitted by right, the need for these  
7 units in the community, the resources or incentives available for  
8 their development, and any other relevant factors, as determined  
9 by the department. Nothing in this section reduces the  
10 responsibility of a city or county to identify, by income category,  
11 the total number of sites for residential development as required  
12 by this article.

13 (b) Sites that contain permanent housing units located on a  
14 military base undergoing closure or conversion as a result of  
15 action pursuant to the Defense Authorization Amendments and  
16 Base Closure and Realignment Act (Public Law 100-526), the  
17 Defense Base Closure and Realignment Act of 1990 (Public Law  
18 101-510), or any subsequent act requiring the closure or  
19 conversion of a military base may be identified as an adequate  
20 site if the housing element demonstrates that the housing units  
21 will be available for occupancy by households within the  
22 planning period of the element. No sites containing housing units  
23 scheduled or planned for demolition or conversion to  
24 nonresidential uses shall qualify as an adequate site.

25 Any city, city and county, or county using this subdivision  
26 shall address the progress in meeting this section in the reports  
27 provided pursuant to paragraph (1) of subdivision (b) of Section  
28 65400.

29 (c) (1) The Department of Housing and Community  
30 Development may allow a city or county to substitute the  
31 provision of units for up to 25 percent of the community's  
32 obligation to identify adequate sites for any income category in  
33 its housing element pursuant to paragraph (1) of subdivision (c)  
34 of Section 65583 where the community includes in its housing  
35 element a program committing the local government to provide  
36 units in that income category within the city or county that will  
37 be made available through the provision of committed assistance  
38 during the planning period covered by the element to low- and  
39 very low income households at affordable housing costs or  
40 affordable rents, as defined in Sections 50052.5 and 50053 of the

1 Health and Safety Code, and which meet the requirements of  
2 paragraph (2). Except as otherwise provided in this subdivision,  
3 the community may substitute one dwelling unit for one dwelling  
4 unit site in the applicable income category. The program shall do  
5 all of the following:

6 (A) Identify the specific, existing sources of committed  
7 assistance and dedicate a specific portion of the funds from those  
8 sources to the provision of housing pursuant to this subdivision.

9 (B) Indicate the number of units that will be provided to both  
10 low- and very low income households and demonstrate that the  
11 amount of dedicated funds is sufficient to develop the units at  
12 affordable housing costs or affordable rents.

13 (C) Demonstrate that the units meet the requirements of  
14 paragraph (2).

15 (2) Only units that comply with subparagraph (A), (B), or (C)  
16 qualify for inclusion in the housing element program described in  
17 paragraph (1), as follows:

18 (A) Units that are to be substantially rehabilitated with  
19 committed assistance from the city or county and constitute a net  
20 increase in the community's stock of housing affordable to low-  
21 and very low income households. For purposes of this  
22 subparagraph, a unit is not eligible to be "substantially  
23 rehabilitated" unless all of the following requirements are met:

24 (i) At the time the unit is identified for substantial  
25 rehabilitation, (I) the local government has determined that the  
26 unit is at imminent risk of loss to the housing stock, (II) the local  
27 government has committed to provide relocation assistance  
28 pursuant to Chapter 16 (commencing with Section 7260) of  
29 Division 7 of Title 1 to any occupants temporarily or  
30 permanently displaced by the rehabilitation or code enforcement  
31 activity, or the relocation is otherwise provided prior to  
32 displacement either as a condition of receivership, or provided by  
33 the property owner or the local government pursuant to Article  
34 2.5 (commencing with Section 17975) of Chapter 5 of Part 1.5 of  
35 Division 13 of the Health and Safety Code, or as otherwise  
36 provided by local ordinance; provided the assistance includes not  
37 less than the equivalent of four months' rent and moving  
38 expenses and comparable replacement housing consistent with  
39 the moving expenses and comparable replacement housing  
40 required pursuant to Section 7260, (III) the local government

1 requires that any displaced occupants will have the right to  
2 reoccupy the rehabilitated units, and (IV) the unit has been found  
3 by the local government or a court to be unfit for human  
4 habitation due to the existence of at least four violations of the  
5 conditions listed in subdivisions (a) to (g), inclusive, of Section  
6 17995.3 of the Health and Safety Code.

7 (ii) The rehabilitated unit will have long-term affordability  
8 covenants and restrictions that require the unit to be available to,  
9 and occupied by, persons or families of low- or very low income  
10 at affordable housing costs for at least 20 years or the time period  
11 required by any applicable federal or state law or regulation.

12 (iii) Prior to initial occupancy after rehabilitation, the local  
13 code enforcement agency shall issue a certificate of occupancy  
14 indicating compliance with all applicable state and local building  
15 code and health and safety code requirements.

16 (B) Units that are located in a multifamily rental housing  
17 complex of four or more units, are converted with committed  
18 assistance from the city or county from nonaffordable to  
19 affordable by acquisition of the unit or the purchase of  
20 affordability covenants and restrictions for the unit, are not  
21 acquired by eminent domain, and constitute a net increase in the  
22 community's stock of housing affordable to low- and very low  
23 income households. For purposes of this subparagraph, a unit is  
24 not converted by acquisition or the purchase of affordability  
25 covenants unless all of the following occur:

26 (i) The unit is made available at a cost affordable to low- or  
27 very low income households.

28 (ii) At the time the unit is identified for acquisition, the unit is  
29 not available at an affordable housing cost to either of the  
30 following:

31 (I) Low-income households, if the unit will be made  
32 affordable to low-income households.

33 (II) Very low income households, if the unit will be made  
34 affordable to very low income households.

35 (iii) At the time the unit is identified for acquisition the unit is  
36 not occupied by low- or very low income households or if the  
37 acquired unit is occupied, the local government has committed to  
38 provide relocation assistance prior to displacement, if any,  
39 pursuant to Chapter 16 (commencing with Section 7260) of  
40 Division 7 of Title 1 to any occupants displaced by the

1 conversion, or the relocation is otherwise provided prior to  
2 displacement; provided the assistance includes not less than the  
3 equivalent of four months' rent and moving expenses and  
4 comparable replacement housing consistent with the moving  
5 expenses and comparable replacement housing required pursuant  
6 to Section 7260.

7 (iv) The unit is in decent, safe, and sanitary condition at the  
8 time of occupancy.

9 (v) The unit has long-term affordability covenants and  
10 restrictions that require the unit to be affordable to persons of  
11 low- or very low income for not less than 55 years.

12 (C) Units that will be preserved at affordable housing costs to  
13 persons or families of low- or very low incomes with committed  
14 assistance from the city or county by acquisition of the unit or the  
15 purchase of affordability covenants for the unit. For purposes of  
16 this subparagraph, a unit shall not be deemed preserved unless all  
17 of the following occur:

18 (i) The unit has long-term affordability covenants and  
19 restrictions that require the unit to be affordable to and reserved  
20 for occupancy by persons of the same or lower income group as  
21 the current occupants for a period of at least 40 years.

22 (ii) The unit is within an "assisted housing development," as  
23 defined in paragraph (3) of subdivision (a) of Section 65863.10.

24 (iii) The city or county finds, after a public hearing, that the  
25 unit is eligible, and is reasonably expected, to change from  
26 housing affordable to low- and very low income households to  
27 any other use during the next five years due to termination of  
28 subsidy contracts, mortgage prepayment, or expiration of  
29 restrictions on use.

30 (iv) The unit is in decent, safe, and sanitary condition at the  
31 time of occupancy.

32 (v) At the time the unit is identified for preservation it is  
33 available at affordable cost to persons or families of low- or very  
34 low income.

35 (3) This subdivision does not apply to any city or county that,  
36 during the current or immediately prior planning period, as  
37 defined by Section 65588, has not met any of its share of the  
38 regional need for affordable housing, as defined in Section  
39 65584, for low- and very low income households. A city or  
40 county shall document for any housing unit that a building permit

1 has been issued and all development and permit fees have been  
2 paid or the unit is eligible to be lawfully occupied.

3 (4) For purposes of this subdivision, “committed assistance”  
4 means that the city or county enters into a legally enforceable  
5 agreement during the first two years of the housing element  
6 planning period that obligates sufficient available funds to  
7 provide the assistance necessary to make the identified units  
8 affordable and that requires that the units be made available for  
9 occupancy within two years of the execution of the agreement.  
10 “Committed assistance” does not include tenant-based rental  
11 assistance.

12 (5) For purposes of this subdivision, “net increase” includes  
13 only housing units provided committed assistance pursuant to  
14 subparagraph (A) or (B) of paragraph (2) in the current planning  
15 period, as defined in Section 65588, that were not provided  
16 committed assistance in the immediately prior planning period.

17 (6) For purposes of this subdivision, “the time the unit is  
18 identified” means the earliest time when any city or county agent,  
19 acting on behalf of a public entity, has proposed in writing or has  
20 proposed orally or in writing to the property owner, that the unit  
21 be considered for substantial rehabilitation, acquisition, or  
22 preservation.

23 (7) On July 1 of the third year of the planning period, as  
24 defined by Section 65588, in the report required pursuant to  
25 Section 65400, each city or county that has included in its  
26 housing element a program to provide units pursuant to  
27 subparagraph (A), (B), or (C) of paragraph (2) shall report in  
28 writing to the legislative body, and to the department within 30  
29 days of making its report to the legislative body, on its progress  
30 in providing units pursuant to this subdivision. The report shall  
31 identify the specific units for which committed assistance has  
32 been provided or which have been made available to low- and  
33 very low income households, and it shall adequately document  
34 how each unit complies with this subdivision. If, by July 1 of the  
35 third year of the planning period, the city or county has not  
36 entered into an enforceable agreement of committed assistance  
37 for all units specified in the programs adopted pursuant to  
38 subparagraph (A), (B), or (C) of paragraph (2), the city or county  
39 shall, not later than July 1 of the fourth year of the planning  
40 period, adopt an amended housing element in accordance with

1 Section 65585, identifying additional adequate sites pursuant to  
2 paragraph (1) of subdivision (c) of Section 65583 sufficient to  
3 accommodate the number of units for which committed  
4 assistance was not provided. If a city or county does not amend  
5 its housing element to identify adequate sites to address any  
6 shortfall, or fails to complete the rehabilitation, acquisition,  
7 purchase of affordability covenants, or the preservation of any  
8 housing unit within two years after committed assistance was  
9 provided to that unit, it shall be prohibited from identifying units  
10 pursuant to subparagraph (A), (B), or (C) of paragraph (2) in the  
11 housing element that it adopts for the next planning period, as  
12 defined in Section 65588, above the number of units actually  
13 provided or preserved due to committed assistance.

14 SEC. 4. Section 65583.2 of the Government Code is amended  
15 to read:

16 65583.2. (a) A city's or county's inventory of land suitable  
17 for residential development pursuant to paragraph (3) of  
18 subdivision (a) of Section 65583 shall be used to identify sites  
19 that can be developed for housing within the planning period and  
20 that are sufficient to provide for the jurisdiction's share of the  
21 regional housing need for all income levels pursuant to Section  
22 65584. As used in this section, "land suitable for residential  
23 development" includes all of the following:

- 24 (1) Vacant sites zoned for residential use.  
25 (2) Vacant sites zoned for nonresidential use that allows  
26 residential development.  
27 (3) Residentially zoned sites that are capable of being  
28 developed at a higher density.  
29 (4) Sites zoned for nonresidential use that can be redeveloped  
30 for, and as necessary, rezoned for, residential use.

31 (b) The inventory of land shall include all of the following:

- 32 (1) A listing of properties by parcel number or other unique  
33 reference.  
34 (2) The size of each property listed pursuant to paragraph (1),  
35 and the general plan designation and zoning of each property.  
36 (3) For nonvacant sites, a description of the existing use of  
37 each property.  
38 (4) A general description of any environmental constraints to  
39 the development of housing within the jurisdiction, the  
40 documentation for which has been made available to the



1 jurisdiction. This information need not be identified on a  
2 site-specific basis.

3 (5) A general description of existing or planned water, sewer,  
4 and other dry utilities supply, including the availability and  
5 access to distribution facilities. This information need not be  
6 identified on a site-specific basis.

7 (6) Sites identified as available for housing for  
8 above-moderate income households in areas not served by public  
9 sewer systems. This information need not be identified on a  
10 site-specific basis.

11 (7) A map that shows the location of the sites included in the  
12 inventory, such as the land use map from the jurisdiction's  
13 general plan for reference purposes only.

14 (c) Based on the information provided in subdivision (b), a  
15 city or county shall determine whether each site in the inventory  
16 can accommodate some portion of its share of the regional  
17 housing need by income level during the planning period, as  
18 determined pursuant to Section 65584. The analysis shall  
19 determine whether the inventory can provide for a variety of  
20 types of housing, including multifamily rental housing,  
21 factory-built housing, mobilehomes, housing for agricultural  
22 employees, emergency shelters, and transitional housing. The  
23 city or county shall determine the number of housing units that  
24 can be accommodated on each site as follows:

25 (1) If local law or regulations require the development of a site  
26 at a minimum density, the department shall accept the planning  
27 agency's calculation of the total housing unit capacity on that site  
28 based on the established minimum density. If the city or county  
29 does not adopt a law or regulations requiring the development of  
30 a site at a minimum density, then it shall demonstrate how the  
31 number of units determined for that site pursuant to this  
32 subdivision will be accommodated.

33 (2) The number of units calculated pursuant to paragraph (1)  
34 shall be adjusted as necessary, based on the land use controls and  
35 site improvements requirement identified in paragraph (4) of  
36 subdivision (a) of Section 65583.

37 (3) For the number of units calculated to accommodate its  
38 share of the regional housing need for lower income households  
39 pursuant to paragraph (2), a city or county shall do either of the  
40 following:

1 (A) Provide an analysis demonstrating how the adopted  
2 densities accommodate this need. The analysis shall include, but  
3 is not limited to, factors such as market demand, financial  
4 feasibility, or information based on development project  
5 experience within a zone or zones that provide housing for lower  
6 income households.

7 (B) The following densities shall be deemed appropriate to  
8 accommodate housing for lower income households:

9 (i) For incorporated cities within nonmetropolitan counties and  
10 for nonmetropolitan counties that have micropolitan areas: sites  
11 allowing at least 15 units per acre.

12 (ii) For unincorporated areas in all nonmetropolitan counties  
13 not included in clause (i): sites allowing at least 10 units per acre.

14 (iii) For suburban jurisdictions: sites allowing at least 20 units  
15 per acre.

16 (iv) For jurisdictions in metropolitan counties: sites allowing  
17 at least 30 units per acre.

18 (d) For purposes of this section, metropolitan counties,  
19 nonmetropolitan counties, and nonmetropolitan counties with  
20 micropolitan areas are as determined by the United States Census  
21 Bureau. Nonmetropolitan counties with micropolitan areas  
22 include the following counties: Del Norte, Humboldt, Lake  
23 Mendocino, Nevada, Tehama, and Tuolumne and such other  
24 counties as may be determined by the United States Census  
25 Bureau to be nonmetropolitan counties with micropolitan areas in  
26 the future.

27 (e) A jurisdiction is considered suburban if the jurisdiction  
28 does not meet the requirements of clauses (i) and (ii) of  
29 subparagraph (B) of paragraph (3) of subdivision (c) and is  
30 located in a Metropolitan Statistical Area (MSA) of less than  
31 2,000,000 in population, unless that jurisdiction's population is  
32 greater than 100,000, in which case it is considered metropolitan.  
33 Counties, not including the City and County of San Francisco,  
34 will be considered suburban unless they are in a MSA of  
35 2,000,000 or greater in population in which case they are  
36 considered metropolitan.

37 (f) A jurisdiction is considered metropolitan if the jurisdiction  
38 does not meet the requirements for "suburban area" above and is  
39 located in a MSA of 2,000,000 or greater in population, unless

1 that jurisdiction's population is less than 25,000 in which case it  
2 is considered suburban.

3 (g) For sites described in paragraph (3) of subdivision (b), the  
4 city or county shall specify the additional development potential  
5 for each site within the planning period and shall provide an  
6 explanation of the methodology used to determine the  
7 development potential. The methodology shall consider factors  
8 including the extent to which existing uses may constitute an  
9 impediment to additional residential development, development  
10 trends, market conditions, and regulatory or other incentives or  
11 standards to encourage additional residential development on  
12 these sites.

13 (h) The program required by subparagraph (A) of paragraph  
14 (1) of subdivision (c) of Section 65583 shall accommodate 100  
15 percent of the need for housing for very low and low-income  
16 households allocated pursuant to Section 65584 for which site  
17 capacity has not been identified in the inventory of sites pursuant  
18 to paragraph (3) of subdivision (a) on sites that shall be zoned to  
19 permit owner-occupied and rental multifamily residential use by  
20 right during the planning period. These sites shall be zoned with  
21 minimum density and development standards that permit at least  
22 16 units per site at a density of at least 16 units per acre in  
23 jurisdictions described in clause (i) of subparagraph (B) of  
24 paragraph (3) of subdivision (c) and at least 20 units per acre in  
25 jurisdictions described in clauses (iii) and (iv) of subparagraph  
26 (B) of paragraph (3) of subdivision (c). At least 50 percent of the  
27 very low and low-income housing need shall be accommodated  
28 on sites designated for residential use and for which  
29 nonresidential uses or mixed-uses are not permitted.

30 (i) For purposes of this section and Section 65583, the phrase  
31 "use by right" shall mean that the local government's review of  
32 the owner-occupied or multifamily residential use may not  
33 require a conditional use permit, planned unit development  
34 permit, or other discretionary local government review or  
35 approval that would constitute a "project" for purposes of  
36 Division 13 (commencing with Section 21000) of the Public  
37 Resources Code. Any subdivision of the sites shall be subject to  
38 all laws, including, but not limited to, the local government  
39 ordinance implementing the Subdivision Map Act. A local  
40 ordinance may provide that "use by right" does not exempt the

1 use from design review. However, that design review shall not  
2 constitute a “project” for purposes of Division 13 (commencing  
3 with Section 21000) of the Public Resources Code. Use by right  
4 for all rental multifamily residential housing shall be provided in  
5 accordance with subdivision (f) of Section 65589.5.

6 SEC. 5. Section 65588 of the Government Code is amended  
7 to read:

8 65588. (a) Each local government shall review its housing  
9 element as frequently as appropriate to evaluate all of the  
10 following:

11 (1) The appropriateness of the housing goals, objectives, and  
12 policies in contributing to the attainment of the state housing  
13 goal.

14 (2) The effectiveness of the housing element in attainment of  
15 the community’s housing goals and objectives.

16 (3) The progress of the city, county, or city and county in  
17 implementation of the housing element.

18 (b) The housing element shall be revised as appropriate, but  
19 not less than every five years, to reflect the results of this  
20 periodic review.

21 (c) The review and revision of housing elements required by  
22 this section shall take into account any low- or moderate-income  
23 housing provided or required pursuant to Section 65590.

24 (d) The review pursuant to subdivision (c) shall include, but  
25 need not be limited to, the following:

26 (1) The number of new housing units approved for  
27 construction within the coastal zone after January 1, 1982.

28 (2) The number of housing units for persons and families of  
29 low or moderate income, as defined in Section 50093 of the  
30 Health and Safety Code, required to be provided in new housing  
31 developments either within the coastal zone or within three miles  
32 of the coastal zone pursuant to Section 65590.

33 (3) The number of existing residential dwelling units occupied  
34 by persons and families of low or moderate income, as defined in  
35 Section 50093 of the Health and Safety Code, that have been  
36 authorized to be demolished or converted since January 1, 1982,  
37 in the coastal zone.

38 (4) The number of residential dwelling units for persons and  
39 families of low or moderate income, as defined in Section 50093  
40 of the Health and Safety Code, that have been required for

1 replacement or authorized to be converted or demolished as  
2 identified in paragraph (3). The location of the replacement units,  
3 either onsite, elsewhere within the locality's jurisdiction within  
4 the coastal zone, or within three miles of the coastal zone within  
5 the locality's jurisdiction, shall be designated in the review.

6 (e) Notwithstanding subdivision (b) or the date of adoption of  
7 the housing elements previously in existence, each city, county,  
8 and city and county shall revise its housing element according to  
9 the following schedule:

10 (1) Local governments within the regional jurisdiction of the  
11 Southern California Association of Governments: December 31,  
12 2000, for the third revision, and June 30, 2006, for the fourth  
13 revision.

14 (2) Local governments within the regional jurisdiction of the  
15 Association of Bay Area Governments: December 31, 2001, for  
16 the third revision, and June 30, 2007, for the fourth revision.

17 (3) Local governments within the regional jurisdiction of the  
18 Council of Fresno County Governments, the Kern County  
19 Council of Governments, and the Sacramento Area Council of  
20 Governments: June 30, 2002, for the third revision, and June 30,  
21 2008, for the fourth revision.

22 (4) Local governments within the regional jurisdiction of the  
23 Association of Monterey Bay Area Governments: December 31,  
24 2002, for the third revision, and June 30, 2008, for the fourth  
25 revision.

26 (5) Local governments within the regional jurisdiction of the  
27 San Diego Association of Governments: December 31, 1999, for  
28 the third revision cycle ending June 30, 1999, and June 30, 2005,  
29 for the fourth revision.

30 (6) All other local governments: December 31, 2003, for the  
31 third revision, and June 30, 2009, for the fourth revision.

32 (7) Subsequent revisions shall be completed not less often than  
33 at five-year intervals following the fourth revision.

34 ~~SEC. 6. Section 65589.5 of the Government Code is amended~~  
35 ~~to read:~~

36 ~~65589.5. (a) The Legislature finds and declares all of the~~  
37 ~~following:~~

38 ~~(1) The lack of housing is a critical problem that threatens the~~  
39 ~~economic, environmental, and social quality of life in California.~~

1     ~~(2) California housing has become the most expensive in the~~  
2     ~~nation. The excessive cost of the state's housing supply is~~  
3     ~~partially caused by activities and policies of many local~~  
4     ~~governments that limit the approval of housing, increase the cost~~  
5     ~~of land for housing, and require that high fees and exactions be~~  
6     ~~paid by producers of housing.~~

7     ~~(3) Among the consequences of those actions are~~  
8     ~~discrimination against low-income and minority households, lack~~  
9     ~~of housing to support employment growth, imbalance in jobs and~~  
10    ~~housing, reduced mobility, urban sprawl, excessive commuting,~~  
11    ~~and air quality deterioration.~~

12    ~~(4) Many local governments do not give adequate attention to~~  
13    ~~the economic, environmental, and social costs of decisions that~~  
14    ~~result in disapproval of housing projects, reduction in density of~~  
15    ~~housing projects, and excessive standards for housing projects.~~

16    ~~(b) It is the policy of the state that a local government not~~  
17    ~~reject or make infeasible housing developments that contribute to~~  
18    ~~meeting the housing need determined pursuant to this article~~  
19    ~~without a thorough analysis of the economic, social, and~~  
20    ~~environmental effects of the action and without complying with~~  
21    ~~subdivision (d).~~

22    ~~(c) The Legislature also recognizes that premature and~~  
23    ~~unnecessary development of agricultural lands for urban uses~~  
24    ~~continues to have adverse effects on the availability of those~~  
25    ~~lands for food and fiber production and on the economy of the~~  
26    ~~state. Furthermore, it is the policy of the state that development~~  
27    ~~should be guided away from prime agricultural lands; therefore,~~  
28    ~~in implementing this section, local jurisdictions should~~  
29    ~~encourage, to the maximum extent practicable, in filling existing~~  
30    ~~urban areas.~~

31    ~~(d) A local agency shall not disapprove a housing~~  
32    ~~development project, including farmworker housing as defined in~~  
33    ~~subdivision (d) of Section 50199.50 of the Health and Safety~~  
34    ~~Code, for very low, low-, or moderate-income households or~~  
35    ~~condition approval, including through the use of design review~~  
36    ~~standards, in a manner that renders the project infeasible for~~  
37    ~~development for the use of very low, low-, or moderate-income~~  
38    ~~households unless it makes written findings, based upon~~  
39    ~~substantial evidence in the record, as to one of the following:~~

1     ~~(1) The jurisdiction has adopted a housing element pursuant to~~  
2 ~~this article that has been revised in accordance with Section~~  
3 ~~65588, is in substantial compliance with this article, and the~~  
4 ~~jurisdiction has met or exceeded its share of the regional housing~~  
5 ~~need allocation pursuant to Section 65584 for the planning period~~  
6 ~~for the income category proposed for the housing development~~  
7 ~~project, provided that any disapproval or conditional approval~~  
8 ~~shall not be based on any of the reasons prohibited by Section~~  
9 ~~65008. If the housing development project includes a mix of~~  
10 ~~income categories, and the jurisdiction has not met or exceeded~~  
11 ~~its share of the regional housing need for one or more of those~~  
12 ~~categories, then this paragraph shall not be used to disapprove or~~  
13 ~~conditionally approve the project. The share of the regional~~  
14 ~~housing need met by the jurisdiction shall be calculated~~  
15 ~~consistently with the forms and definitions that may be adopted~~  
16 ~~by the Department of Housing and Community Development~~  
17 ~~pursuant to Section 65400. Any disapproval or conditional~~  
18 ~~approval pursuant to this paragraph shall be in accordance with~~  
19 ~~applicable law, rule, or standards.~~

20     ~~(2) The development project as proposed would have a~~  
21 ~~specific, adverse impact upon the public health or safety, and~~  
22 ~~there is no feasible method to satisfactorily mitigate or avoid the~~  
23 ~~specific adverse impact without rendering the development~~  
24 ~~unaffordable to low- and moderate-income households. As used~~  
25 ~~in this paragraph, a “specific, adverse impact” means a~~  
26 ~~significant, quantifiable, direct, and unavoidable impact, based~~  
27 ~~on objective, identified written public health or safety standards,~~  
28 ~~policies, or conditions as they existed on the date the application~~  
29 ~~was deemed complete. Inconsistency with the zoning ordinance~~  
30 ~~or general plan land use designation shall not constitute a~~  
31 ~~specific, adverse impact upon the public health or safety.~~

32     ~~(3) The denial of the project or imposition of conditions is~~  
33 ~~required in order to comply with specific state or federal law, and~~  
34 ~~there is no feasible method to comply without rendering the~~  
35 ~~development unaffordable to low- and moderate-income~~  
36 ~~households.~~

37     ~~(4) The development project is proposed on land zoned for~~  
38 ~~agriculture or resource preservation that is surrounded on at least~~  
39 ~~two sides by land being used for agricultural or resource~~

1 preservation purposes, or which does not have adequate water or  
2 wastewater facilities to serve the project.

3 (5) The development project is inconsistent with both the  
4 jurisdiction's zoning ordinance and general plan land use  
5 designation as specified in any element of the general plan as it  
6 existed on the date the application was deemed complete, and the  
7 jurisdiction has adopted a revised housing element in accordance  
8 with Section 65588 that is in substantial compliance with this  
9 article.

10 (A) This paragraph cannot be utilized to disapprove or  
11 conditionally approve a housing development project if the  
12 development project is proposed on a site that is identified as  
13 suitable or available for very low, low-, or moderate-income  
14 households in the jurisdiction's housing element, and consistent  
15 with the density specified in the housing element, even though it  
16 is inconsistent with both the jurisdiction's zoning ordinance and  
17 general plan land use designation.

18 (B) If the local agency has failed to identify in the inventory of  
19 land in its housing element sites that can be developed for  
20 housing within the planning period and that are sufficient to  
21 provide for the jurisdiction's share of the regional housing need  
22 for all income levels pursuant to Section 65584, then this  
23 paragraph shall not be utilized to disapprove or conditionally  
24 approve a housing development project proposed for a site  
25 designated in any element of the general plan for residential uses  
26 or designated in any element of the general plan for commercial  
27 uses if residential uses are permitted or conditionally permitted  
28 within commercial designations. In any action in court, the  
29 burden of proof shall be on the local agency to show that its  
30 housing element does identify adequate sites with appropriate  
31 zoning and development standards and with services and  
32 facilities to accommodate the local agency's share of the regional  
33 housing need for the very low and low-income categories.

34 (e) This section does not relieve the local agency from  
35 complying with the Congestion Management Program required  
36 by Chapter 2.6 (commencing with Section 65088) of Division 1  
37 of Title 7 or the California Coastal Act (Division 20  
38 (commencing with Section 30000) of the Public Resources  
39 Code). This section does not relieve the local agency from  
40 making one or more of the findings required pursuant to Section



1 ~~21081 of the Public Resources Code or otherwise complying~~  
2 ~~with the California Environmental Quality Act (Division 13~~  
3 ~~(commencing with Section 21000) of the Public Resources~~  
4 ~~Code).~~

5 (f) ~~This section does not prohibit a local agency from requiring~~  
6 ~~the development project to comply with objective, quantifiable,~~  
7 ~~written development standards, conditions, and policies~~  
8 ~~appropriate to, and consistent with, meeting the jurisdiction's~~  
9 ~~share of the regional housing need pursuant to Section 65584.~~  
10 ~~However, the development standards, conditions, and policies~~  
11 ~~shall be applied to facilitate and accommodate development at~~  
12 ~~the density permitted on the site and proposed by the~~  
13 ~~development project. This section does not prohibit a local~~  
14 ~~agency from imposing fees and other exactions otherwise~~  
15 ~~authorized by law that are essential to provide necessary public~~  
16 ~~services and facilities to the development project.~~

17 (g) ~~This section shall be applicable to charter cities because~~  
18 ~~the Legislature finds that the lack of housing is a critical~~  
19 ~~statewide problem.~~

20 (h) ~~The following definitions apply for the purposes of this~~  
21 ~~section:~~

22 (1) ~~"Feasible" means capable of being accomplished in a~~  
23 ~~successful manner within a reasonable period of time, taking into~~  
24 ~~account economic, environmental, social, and technological~~  
25 ~~factors.~~

26 (2) ~~"Housing development project" means a use consisting of~~  
27 ~~either of the following:~~

28 (A) ~~Residential units only.~~

29 (B) ~~Mixed-use developments consisting of residential and~~  
30 ~~nonresidential uses in which nonresidential uses are limited to~~  
31 ~~neighborhood commercial uses and to the first floor of buildings~~  
32 ~~that are two or more stories. As used in this paragraph,~~  
33 ~~"neighborhood commercial" means small-scale general or~~  
34 ~~specialty stores that furnish goods and services primarily to~~  
35 ~~residents of the neighborhood.~~

36 (3) ~~"Housing for very low, low-, or moderate-income~~  
37 ~~households" means that either (A) at least 20 percent of the total~~  
38 ~~units shall be sold or rented to lower income households, as~~  
39 ~~defined in Section 50079.5 of the Health and Safety Code, or (B)~~  
40 ~~100 percent of the units shall be sold or rented to~~

~~1 moderate-income households as defined in Section 50093 of the  
2 Health and Safety Code, or middle-income households, as  
3 defined in Section 65008 of this code. Housing units targeted for  
4 lower income households shall be made available at a monthly  
5 housing cost that does not exceed 30 percent of 60 percent of  
6 area median income with adjustments for household size made in  
7 accordance with the adjustment factors on which the lower  
8 income eligibility limits are based. Housing units targeted for  
9 persons and families of moderate income shall be made available  
10 at a monthly housing cost that does not exceed 30 percent of 100  
11 percent of area median income with adjustments for household  
12 size made in accordance with the adjustment factors on which the  
13 moderate income eligibility limits are based.~~

~~14 (4) “Area median income” means area median income as  
15 periodically established by the Department of Housing and  
16 Community Development pursuant to Section 50093 of the  
17 Health and Safety Code. The developer shall provide sufficient  
18 legal commitments to ensure continued availability of units for  
19 very low or low-income households in accordance with the  
20 provisions of this subdivision for 30 years.~~

~~21 (5) “Neighborhood” means a planning area commonly  
22 identified in a community’s planning documents, and identified  
23 as a neighborhood by the individuals residing and working within  
24 the neighborhood. Documentation demonstrating that the area  
25 meets the definition of neighborhood may include a map  
26 prepared for planning purposes which lists the name and  
27 boundaries of the neighborhood.~~

~~28 (6) “Disapprove the development project” includes any  
29 instance in which a local agency does either of the following:~~

~~30 (A) Votes on a proposed housing development project  
31 application and the application is disapproved.~~

~~32 (B) Fails to comply with the time periods specified in  
33 subparagraph (B) of paragraph (1) of subdivision (a) of Section  
34 65950. An extension of time pursuant to Article 5 (commencing  
35 with Section 65950) shall be deemed to be an extension of time  
36 pursuant to this paragraph.~~

~~37 (i) If any city, county, or city and county denies approval or  
38 imposes restrictions, including design changes, a reduction of  
39 allowable densities or the percentage of a lot that may be  
40 occupied by a building or structure under the applicable planning~~

1 and zoning in force at the time the application is deemed  
2 complete pursuant to Section 65943, that have a substantial  
3 adverse effect on the viability or affordability of a housing  
4 development for very low, low-, or moderate-income households,  
5 and the denial of the development or the imposition of  
6 restrictions on the development is the subject of a court action  
7 which challenges the denial, then the burden of proof shall be on  
8 the local legislative body to show that its decision is consistent  
9 with the findings as described in subdivision (d) and that the  
10 findings are supported by substantial evidence in the record.

11 (j) When a proposed housing development project complies  
12 with applicable, objective general plan and zoning standards and  
13 criteria, including design review standards, in effect at the time  
14 that the housing development project's application is determined  
15 to be complete, but the local agency proposes to disapprove the  
16 project or to approve it upon the condition that the project be  
17 developed at a lower density, the local agency shall base its  
18 decision regarding the proposed housing development project  
19 upon written findings supported by substantial evidence on the  
20 record that both of the following conditions exist:

21 (1) The housing development project would have a specific,  
22 adverse impact upon the public health or safety unless the project  
23 is disapproved or approved upon the condition that the project be  
24 developed at a lower density. As used in this paragraph, a  
25 "specific, adverse impact" means a significant, quantifiable,  
26 direct, and unavoidable impact, based on objective, identified  
27 written public health or safety standards, policies, or conditions  
28 as they existed on the date the application was deemed complete.

29 (2) There is no feasible method to satisfactorily mitigate or  
30 avoid the adverse impact identified pursuant to paragraph (1),  
31 other than the disapproval of the housing development project or  
32 the approval of the project upon the condition that it be  
33 developed at a lower density.

34 (k) The applicant or any person who would be eligible to  
35 apply for residency in the development may bring an action to  
36 enforce this section. If in any action brought to enforce the  
37 provisions of this section, a court finds that the local agency  
38 disapproved a project or conditioned its approval in a manner  
39 rendering it infeasible for the development of housing for very  
40 low-, low-, or moderate-income households, including

~~1 farmworker housing, without making the findings required by  
2 this section or without making sufficient findings supported by  
3 substantial evidence, the court shall issue an order or judgment  
4 compelling compliance with this section within 60 days,  
5 including, but not limited to, an order that the local agency take  
6 action on the development project. The court shall retain  
7 jurisdiction to ensure that its order or judgment is carried out and  
8 shall award reasonable attorney's fees and costs of suit to the  
9 plaintiff or petitioner who proposed the housing development,  
10 except under extraordinary circumstances in which the court  
11 finds that awarding fees would not further the purposes of this  
12 section. If the court determines that its order or judgment has not  
13 been carried out within 60 days, the court may issue further  
14 orders as provided by law to ensure that the purposes and policies  
15 of this section are fulfilled, including, but not limited to, an order  
16 to vacate the decision of the local agency, in which case the  
17 application for the project, as constituted at the time the local  
18 agency took the initial action determined to be in violation of this  
19 section, along with any standard conditions determined by the  
20 court to be generally imposed by the local agency on similar  
21 projects, shall be deemed approved unless the applicant consents  
22 to a different decision or action by the local agency.~~

~~23 (l) If the court finds that the local agency (1) acted in bad faith  
24 when it disapproved or conditionally approved the housing  
25 development in violation of this section and (2) failed to carry  
26 out the court's order or judgment within 60 days as described in  
27 paragraph (k), the court in addition to any other remedies  
28 provided by this section, may impose fines upon the local agency  
29 that the local agency shall be required to deposit into a housing  
30 trust fund. Fines shall not be paid from funds that are already  
31 dedicated for affordable housing, including, but not limited to,  
32 redevelopment or low- and moderate-income housing funds and  
33 federal HOME and CDBG funds. The local agency shall commit  
34 the money in the trust fund within five years for the sole purpose  
35 of financing newly constructed housing units affordable to  
36 extremely low, very low, or low-income households. For  
37 purposes of this section, "bad faith" shall mean an action that is  
38 frivolous or otherwise entirely without merit.~~

~~39 (m) Any action brought to enforce the provisions of this  
40 section shall be brought pursuant to Section 1094.5 of the Code~~

1 of Civil Procedure, and the local agency shall prepare and certify  
2 the record of proceedings in accordance with subdivision (c) of  
3 Section 1094.6 of the Code of Civil Procedure no later than 30  
4 days after the petition is served, provided that the cost of  
5 preparation of the record shall be borne by the local agency.  
6 Upon entry of the trial court's order, a party shall, in order to  
7 obtain appellate review of the order, file a petition within 20 days  
8 after service upon it of a written notice of the entry of the order,  
9 or within such further time not exceeding an additional 20 days  
10 as the trial court may for good cause allow. If the local agency  
11 appeals the judgment of the trial court, the local agency shall post  
12 a bond, in an amount to be determined by the court, to the benefit  
13 of the plaintiff if the plaintiff is the project applicant.

14 (n) ~~In any action, the record of the proceedings before the~~  
15 ~~local agency shall be filed as expeditiously as possible and,~~  
16 ~~notwithstanding Section 1094.6 of the Code of Civil Procedure~~  
17 ~~or subdivision (m) of this section, all or part of the record may be~~  
18 ~~prepared (1) by the petitioner with the petition or petitioner's~~  
19 ~~points and authorities, (2) by the respondent with respondent's~~  
20 ~~points and authorities, (3) after payment of costs by the~~  
21 ~~petitioner, or (4) as otherwise directed by the court. If the~~  
22 ~~expense of preparing the record has been borne by the petitioner~~  
23 ~~and the petitioner is the prevailing party, the expense shall be~~  
24 ~~taxable as costs.~~

25 ~~SEC. 7.~~

26 *SEC. 6.* Section 17021.6 of the Health and Safety Code is  
27 amended to read:

28 17021.6. (a) The owner of any employee housing who has  
29 qualified or intends to qualify for a permit to operate pursuant to  
30 this part may invoke this section.

31 (b) Any employee housing consisting of no more than 12 beds  
32 in a group quarters or 12 units or spaces designed for use by a  
33 ~~singe~~ *single* family or household shall be deemed an agricultural  
34 land use designation for the purposes of this section. For the  
35 purpose of all local ordinances, employee housing shall not be  
36 deemed a use that implies that the employee housing is an  
37 activity that differs in any other way from an agricultural use. No  
38 conditional use permit, zoning variance, or other zoning  
39 clearance shall be required of this employee housing that is not  
40 required of any other agricultural activity in the same zone. The

1 permitted occupancy in employee housing in an agricultural zone  
2 shall include agricultural employees who do not work on the  
3 property where the employee housing is located.

4 (c) Except as otherwise provided in this part, employee  
5 housing consisting of no more than 12 beds in a group quarters or  
6 12 units or spaces designed for use by a single family or  
7 household shall not be subject to any business taxes, local  
8 registration fees, use permit fees, or other fees to which other  
9 agricultural activities in the same zone are not likewise subject.

10 Nothing in this subdivision shall be construed to forbid the  
11 imposition of local property taxes, fees for water services and  
12 garbage collection, fees for normal inspections, local bond  
13 assessments, and other fees, charges, and assessments to which  
14 other agricultural activities in the same zone are likewise subject.  
15 Neither the State Fire Marshal nor any local public entity shall  
16 charge any fee to the owner, operator, or any resident for  
17 enforcing fire inspection regulation pursuant to state law or  
18 regulation or local ordinance, with respect to employee housing  
19 consisting of no more than 12 beds in a group quarters or 12 units  
20 or spaces designed for use by a single family or household.

21 (d) For the purposes of any contract, deed, or covenant for the  
22 transfer of real property, employee housing consisting of no more  
23 than 12 beds in a group quarters or 12 units or spaces designed  
24 for use by a single family or household shall be considered an  
25 agricultural use of property, notwithstanding any disclaimers to  
26 the contrary. For purposes of this section, “employee housing”  
27 includes employee housing defined in subdivision (b) of Section  
28 17008, even if the housing accommodations or property are not  
29 located in a rural area, as defined by Section 50101.

30 (e) The Legislature hereby declares that it is the policy of this  
31 state that each county and city shall permit and encourage the  
32 development and use of sufficient numbers and types of  
33 employee housing facilities as are commensurate with local need.  
34 This section shall apply equally to any charter city, general law  
35 city, county, city and county, district, and any other local public  
36 entity.

37 (f) If any owner who invokes the provisions of this section  
38 fails to maintain a permit to operate pursuant to this part  
39 throughout the first 10 consecutive years following the issuance

1 of the original certificate of occupancy, both of the following  
2 shall occur:

3 (1) The enforcement agency shall notify the appropriate local  
4 government entity.

5 (2) The public agency that has waived any taxes, fees,  
6 assessments, or charges for employee housing pursuant to this  
7 section may recover the amount of those taxes, fees, assessments,  
8 or charges from the landowner, less 10 percent of that amount for  
9 each year that a valid permit has been maintained.

10 (g) Subdivision (f) shall not apply to an owner of any  
11 prospective, planned, or unfinished employee housing facility  
12 who has applied to the appropriate state and local public entities  
13 for a permit to construct or operate pursuant to this part prior to  
14 January 1, 1996.

15 ~~SEC. 8.~~

16 *SEC. 7.* Section 18027.3 of the Health and Safety Code is  
17 amended to read:

18 18027.3. (a) The Legislature finds and declares as follows:

19 (1) The American National Standards Institute (ANSI) and  
20 National Fire Protection Association (NFPA) have adopted  
21 standards for the design and safety of recreational vehicles,  
22 including park trailers, pursuant to procedures that have given  
23 diverse views an opportunity to be considered and which indicate  
24 that interested and affected parties have reached substantial  
25 agreement on their adoption.

26 (2) The ANSI A119.2 and A119.5 standards and the ~~NRPA~~  
27 *NFPA* 1192 standards are designed to protect the health and  
28 safety of persons using recreational vehicles and park trailers.

29 (3) Compliance with those standards as required by this  
30 section may be enforced by any law enforcement authority  
31 having appropriate jurisdiction, pursuant to Section 18020.5,  
32 which makes it a crime to violate any provision of this part.  
33 Therefore, to promote governmental efficiency and economy and  
34 to avoid duplication of activities and services, it is appropriate to  
35 eliminate the role of the department in modifying and enforcing  
36 standards for the construction of recreational vehicles.

37 (b) Recreational vehicles specified in subdivision (a) of  
38 Section 18010 that are manufactured on or after January 1, 1999,  
39 and before July 14, 2005, shall be constructed in accordance with  
40 Standard No. A119.2, as contained in the 1996 edition of the

Standards of the American National Standards Institute. Recreational vehicles specified in subdivision (a) of Section 18010 that are manufactured on or after July 14, 2005, shall be constructed in accordance with the NFPA 1192 Standard on Recreational Vehicles.

(c) Recreational vehicles specified in subdivision (b) of Section 18010 that are manufactured on or after January 1, 1999, shall be constructed in accordance with Standard No. A119.5, as contained in the 1998 edition of the Standards of the American National Standards Institute.

(d) A change in Standard No. A119.2 or A119.5 or in the NFPA 1192 Standard on Recreational Vehicles contained in a new edition of the Standards of the American National Standards Institute shall become operative on the 180th day following the publication date.

(e) No recreational vehicle shall be equipped with more than one electrical power supply cord.

(f) Any recreational vehicle manufactured on or after January 1, 1999, that is offered for sale, sold, rented, or leased within this state shall bear a label or an insignia indicating the manufacturer's compliance with the American National Standards Institute or National Fire Protection Association standard specified in subdivision (b) or (c).

(g) Any recreational vehicle manufactured prior to January 1, 1999, that is offered for sale, sold, rented, or leased within this state shall bear a label or an insignia of approval indicating the manufacturer's compliance with the American National Standards Institute standard or a department insignia issued prior to January 1, 1999, indicating compliance with the state standard that was in effect pursuant to this chapter on the date of manufacture, including any modifications contained in regulations.

(h) It is unlawful for any person to do either of the following:

(1) Remove, or cause to be removed, a label, an insignia, or an insignia of approval affixed pursuant to this section.

(2) Alter or convert, or cause to be altered or converted, any recreational vehicle in a manner that is inconsistent with ANSI Standard No. A119.2 or A119.5 or the NFPA 1192 Standard on Recreational Vehicles when the recreational vehicle is used, occupied, sold, or offered for sale within this state.



~~SEC. 9.~~

SEC. 8. Section 18552 of the Health and Safety Code is amended to read:

18552. (a) The department shall adopt and submit building standards for approval pursuant to Chapter 4 (commencing with Section 18935) of Part 2.5, and the department shall adopt other regulations for manufactured home or mobilehome accessory buildings or structures. The regulations adopted by the department shall provide for the construction, location, and use of manufactured home or mobilehome accessory buildings or structures to protect the health and safety of the occupants and the public, and shall be enforced by the appropriate enforcement agency.

(b) A manufactured home or accessory building or structure may be installed in a mobilehome park above 4,000 feet in elevation at the option of the owner of the home and after approval by the park operator only if the installation is consistent with one of the following:

(1) If the manufactured home or accessory building or structure does not have the capacity to resist the minimum snow loads as established for residential buildings by local ordinance, the manufactured home or accessory building or structure must have the capacity to resist a roof live load of at least 60 pounds per square foot and may only be installed in a mobilehome park that has and is operating an approved snow roof load maintenance program, as defined by the department. The installation shall comply with all other applicable requirements of this part and the regulations adopted pursuant to this part and shall be approved by the enforcement agency. The approval of the snow roof load maintenance program shall be identified on the permit to operate.

(2) If the manufactured home or accessory building or structure does not have the capacity to resist the minimum snow loads established by local ordinance for residential buildings, the manufactured home or accessory building or structure may only be installed if it is protected by a ramada designed to resist the minimum snow loads established by local ordinance and constructed pursuant to this part and regulations adopted pursuant to this part. The plans and specifications for the

1 construction of the ramada and the installation of the home shall  
2 be approved by the enforcement agency.

3 (3) If a manufactured home or accessory building or structure  
4 has the capacity to resist the minimum snow loads established by  
5 local ordinance for residential buildings, an approved snow roof  
6 load maintenance program or ramada is not required for that  
7 home or accessory building or structure.

8 (c) Before installing a manufactured home or accessory  
9 building or structure pursuant to paragraph (1) of subdivision (b),  
10 the operator of a park shall request and obtain approval from the  
11 enforcement agency for its existing or proposed snow roof load  
12 maintenance program. The enforcement agency's approval shall  
13 be based on relevant factors identified in the regulations of the  
14 department and shall include, but not be limited to, the types of  
15 maintenance to be used to control or remove snow accumulation  
16 and the capacity and capability of personnel and equipment  
17 proposed to satisfactorily perform the snow roof load  
18 *maintenance* program. The request for approval shall specify the  
19 type of maintenance to be used to control snow accumulation and  
20 shall demonstrate the capacity and capability of necessary  
21 personnel or its equivalent to satisfactorily perform the snow roof  
22 load maintenance program.

23 ~~SEC. 10.~~

24 *SEC. 9.* Section 18909 of the Health and Safety Code is  
25 amended to read:

26 18909. (a) "Building standard" means any rule, regulation,  
27 order, or other requirement, including any amendment or repeal  
28 of that requirement, that specifically regulates, requires, or  
29 forbids the method of use, properties, performance, or types of  
30 materials used in the construction, alteration, improvement,  
31 repair, or rehabilitation of a building, structure, factory-built  
32 housing, or other improvement to real property, including  
33 fixtures therein, and as determined by the commission.

34 (b) Except as provided in subdivision (d), "building standard"  
35 includes architectural and design functions of a building or  
36 structure, including, but not limited to, number and location of  
37 doors, windows, and other openings, stress or loading  
38 characteristics of materials, and methods of fabrication,  
39 clearances, and other functions.

1 (c) “Building standard” includes a regulation or rule relating to  
2 the implementation or enforcement of a building standard not  
3 otherwise governed by statute, but does not include the adoption  
4 of procedural ordinances by a city or other public agency relating  
5 to civil, administrative, or criminal procedures and remedies  
6 available for enforcing code violations.

7 (d) “Building standard” does not include any safety  
8 regulations that any state agency is authorized to adopt relating to  
9 the operation of machinery and equipment used in  
10 manufacturing, processing, or fabricating, including, but not  
11 limited to, warehousing and food processing operations, but not  
12 including safety regulations relating to permanent appendages,  
13 accessories, apparatus, appliances, and equipment attached to the  
14 building as a part thereof, as determined by the commission.

15 (e) “Building standard” does not include temporary  
16 scaffoldings and similar temporary safety devices and procedures  
17 that are used in the erection, demolition, moving, or alteration of  
18 buildings.

19 (f) “Building standard” does not include any regulation  
20 relating to the internal management of a state agency.

21 (g) “Building standard” does not include any regulation, rule,  
22 order, or standard that pertains to mobilehomes, manufactured  
23 homes, commercial coaches, special purpose commercial  
24 coaches, or recreational vehicles.

25 (h) “Building standard” does not include any regulation, rule,  
26 or order or standard that pertains to a mobilehome park, as  
27 defined by Section 18214, or special occupancy park, as defined  
28 by Section 18862.43, except that “building standard” includes the  
29 construction of permanent buildings and plumbing, electrical,  
30 and fuel gas equipment and installations within permanent  
31 buildings in a mobilehome park or special occupancy park. For  
32 purposes of this subdivision, “permanent building” means any  
33 permanent structure constructed in the mobilehome park or  
34 special occupancy park that is a permanent facility under the  
35 control and ownership of the park operator.

36 (i) “Building standard” does not include any regulation, rule,  
37 order, or standard that pertains to mausoleums regulated under  
38 Part 5 (commencing with Section 9501) of Division 8.

39 (j) “Building standard” does not include any regulation  
40 adopted by the California Integrated Waste Management Board,

1 the Department of Toxic Substances Control, the Occupational  
2 Safety and Health Standards Board, or the State Water Resources  
3 Control Board concerning the discharge of waste to land or the  
4 treatment, transfer, storage, resource recovery, disposal, or  
5 recycling of the waste.

6 ~~SEC. 11.~~

7 *SEC. 10.* Section 18934.6 of the Health and Safety Code is  
8 repealed.

9 ~~SEC. 12.~~

10 *SEC. 11.* Section 19163.5 of the Health and Safety Code is  
11 amended to read:

12 19163.5. Except as otherwise provided in Chapter 1  
13 (commencing with Section 129675) of Part 7 of Division 107, an  
14 ordinance adopted by a city, city and county, or county pursuant  
15 to Section 19163, may establish higher standards for the seismic  
16 retrofit of those structures or buildings which are needed for  
17 emergency purposes after an earthquake in order to preserve the  
18 peace, health, and safety of the general public, including, but not  
19 limited to, hospitals and other medical facilities having surgery  
20 or emergency treatment areas, fire and police stations,  
21 government disaster operations centers, and public utility and  
22 communication buildings deemed vital in emergencies.

23 ~~SEC. 13.~~

24 *SEC. 12.* Section 19851 of the Health and Safety Code is  
25 amended to read:

26 19851. (a) The official copy of the plans maintained by the  
27 building department of the city or county provided for under  
28 Section 19850 shall be open for inspection only on the premises  
29 of the building department as a public record. The copy may not  
30 be duplicated in whole or in part except (1) with the written  
31 permission, which permission shall not be unreasonably withheld  
32 as specified in subdivision (f), of the certified, licensed or  
33 registered professional or his or her successor, if any, who signed  
34 the original documents and the written permission of the original  
35 or current owner of the building, or, if the building is part of a  
36 common interest development, with the written permission of the  
37 board of directors or governing body of the association  
38 established to manage the common interest development, or (2)  
39 by order of a proper court or upon the request of any state  
40 agency.

(b) Any building department of a city or county, which is requested to duplicate the official copy of the plans maintained by the building department, shall request written permission to do so from the certified, licensed, or registered professional, or his or her successor, if any, who signed the original documents and from (1) the original or current owner of the building or (2), if the building is part of a common interest development, from the board of directors or other governing body of the association established to manage the common interest development.

(c) The building department shall also furnish the form of an affidavit to be completed and signed by the person requesting to duplicate the official copy of the plans, which contains provisions stating all of the following:

(1) That the copy of the plans shall only be used for the maintenance, operation, and use of the building.

(2) That drawings are instruments of professional service and are incomplete without the interpretation of the certified, licensed, or registered professional of record.

(3) That subdivision (a) of Section 5536.25 of the Business and Professions Code states that a licensed architect who signs plans, specifications, reports, or documents shall not be responsible for damage caused by subsequent changes to, or use of, those plans, specifications, reports, or documents where the subsequent changes or uses, including changes or uses made by state or local governmental agencies, are not authorized or approved by the licensed architect who originally signed the plans, specifications, reports, or documents, provided that the architectural service rendered by the architect who signed the plans, specifications, reports, or documents was not also a proximate cause of the damage.

(d) The request by the building department to a licensed, registered, or certified professional may be made by the building department sending a registered or certified letter to the licensed, registered, or certified professional requesting his or her permission to duplicate the official copy of the plans and sending with the registered or certified letter, a copy of the affidavit furnished by the building department which has been completed and signed by the person requesting to duplicate the official copy of the plans. The registered or certified letters shall be sent by the building department to the most recent address of the licensed,

1 registered, or certified professional available from the California  
2 State Board of Architectural Examiners.

3 (e) The governing body of the city or county may establish a  
4 fee to be paid by any person who requests the building  
5 department of the city or county to duplicate the official copy of  
6 any plans pursuant to this section, in an amount which it  
7 determines is reasonably necessary to cover the costs of the  
8 building department pursuant to this section.

9 (f) The certified, licensed, or registered professional's refusal  
10 to permit the duplication of the plans is unreasonable if, upon  
11 request from the building department, the professional does  
12 either of the following:

13 (1) Fails to respond to the local building department within 30  
14 days of receipt by the professional of the request. However, if the  
15 building department determines that professional is unavailable  
16 to respond within 30 days of receipt of the request due to serious  
17 illness, travel, or other extenuating circumstances, the time  
18 period shall be extended by the building department to allow the  
19 professional adequate time to respond, as determined to be  
20 appropriate to the individual circumstance, but not to exceed 60  
21 days.

22 (2) Refuses to give his or her permission for the duplication of  
23 the plans after receiving the signed affidavit and registered or  
24 certified letter specified in subdivisions (c) and (d).

25 ~~SEC. 14.~~

26 *SEC. 13.* Section 33760 of the Health and Safety Code is  
27 amended to read:

28 33760. (a) Within its territorial jurisdiction, an agency may  
29 determine the location and character of any residential  
30 construction to be financed under this chapter and may make  
31 mortgage or construction loans to participating parties through  
32 qualified mortgage lenders, or purchase mortgage or construction  
33 loans without premium made by qualified mortgage lenders to  
34 participating parties, or make loans to qualified mortgage  
35 lenders, for financing any of the following:

36 (1) Residential construction within a redevelopment project  
37 area.

38 (2) Residential construction of residences in which the  
39 dwelling units are committed, for the period during which the  
40 loan is outstanding, for occupancy by persons or families who are

1 eligible for financial assistance specifically provided by a  
2 governmental agency for the benefit of occupants of the  
3 residence.

4 (3) To the extent required by Section 103A of Title 26 of the  
5 United States Code, as amended, to maintain the exemption from  
6 federal income taxes of interest on bonds or notes issued by the  
7 agency under this chapter, residences located within targeted  
8 areas, as defined by Section 103(b)(12)(A) of Title 26 of the  
9 United States Code. Any loans to qualified mortgage lenders  
10 shall be made under terms and conditions which, in addition to  
11 other provisions as determined by the agency, shall require the  
12 qualified mortgage lender to use all of the net proceeds thereof,  
13 directly or indirectly, for the making of mortgage loans or  
14 construction loans in an appropriate principal amount equal to the  
15 amount of the net proceeds. Those mortgage loans may, but need  
16 not, be insured.

17 (b) (1) Not less than 20 percent (15 percent in target areas) of  
18 the units in any residential project financed pursuant to this  
19 section on or after January 1, 1986, shall be occupied by, or made  
20 available to, individuals of low and moderate income, as defined  
21 by Section 103(b)(12)(C) of Title 26 of the United States Code.  
22 If the sponsor elects to establish a base rent for units reserved for  
23 lower income households, the base rents shall be adjusted for  
24 household size, as determined pursuant to Section 8 of the United  
25 States Housing Act of 1937 (42 U.S.C. Sec. 1437f), or its  
26 successor, for a family of one person in the case of a studio unit,  
27 two persons in the case of a one-bedroom unit, three persons in  
28 the case of a two-bedroom unit, four persons in the case of a  
29 three-bedroom unit, and five persons in the case of a  
30 four-bedroom unit.

31 (2) Not less than one-half of the units described in paragraph  
32 (1) shall be occupied by, or made available to, very low income  
33 households, as defined by Section 50105. The rental payments  
34 for those units paid by the persons occupying the units  
35 (excluding any supplemental rental assistance from the state, the  
36 federal government, or any other public agency to those persons  
37 or on behalf of those units) shall not exceed the amount derived  
38 by multiplying 30 percent times 50 percent of the median  
39 adjusted gross income for the area, adjusted for family size, as  
40 determined pursuant to Section 8 of the United States Housing

1 Act of 1937 (42 U.S.C. Sec. 1437f), or its successor, for a family  
2 of one person in the case of a studio unit, two persons in the case  
3 of a one-bedroom unit, three persons in the case of a  
4 two-bedroom unit, four persons in the case of a three-bedroom  
5 unit, and five persons in the case of a four-bedroom unit.

6 (c) Units required to be reserved for occupancy as provided in  
7 subdivision (b) and financed with the proceeds of bonds issued  
8 on or after January 1, 1986, shall remain occupied by, or made  
9 available to, those persons until the bonds are retired.

10 (d) (1) When issuing tax-exempt bonds for purposes of this  
11 section, the regulatory agreement entered into by the agency shall  
12 require that following the expiration or termination of the  
13 qualified project period, except in the event of foreclosure and  
14 redemption of the bonds, deed in lieu of foreclosure, eminent  
15 domain, or action of a federal agency preventing enforcement,  
16 units required to be reserved for occupancy for low- or very low  
17 income households and financed *or refinanced* with proceeds of  
18 bonds issued ~~or refunded~~ *pursuant to this section* on or after  
19 January 1, 2006, *or refinanced with the proceeds of bonds issued*  
20 *pursuant to Section 53583 of the Government Code or any*  
21 *charter city authority on or after January 1, 2007*, shall remain  
22 available to any eligible household occupying a reserved unit at  
23 the date of expiration or termination, at a rent not greater than the  
24 amount set forth by the regulatory agreement prior to the date or  
25 expiration or termination, until the earliest of any of the  
26 following occur:

27 (A) The household's income exceeds 140 percent of the  
28 maximum eligible income specified in the regulatory agreement  
29 for reserved units.

30 (B) The household voluntarily moves or is evicted for "good  
31 cause." "Good cause" for the purposes of this section, means the  
32 nonpayment of rent or allegation of facts necessary to prove  
33 major, or repeated minor, violations of material provisions of the  
34 occupancy agreement which detrimentally affect the health and  
35 safety of other persons or the structure, the fiscal integrity of the  
36 development, or the purposes or special programs of the  
37 development.

38 (C) Thirty years after the date of the commencement of the  
39 qualified project period.



1 (D) The sponsor pays the relocation assistance and benefits to  
2 tenants as provided in subdivision (b) of Section 7264 of the  
3 Government Code.

4 (2) As used in this subdivision, “qualified project period” shall  
5 have the meaning specified in, and shall be determined in  
6 accordance with the provisions of, subsection (d) of Section 142  
7 of the Internal Revenue Code of 1986, as amended, and United  
8 States Treasury regulations and rulings promulgated pursuant  
9 thereto.

10 (3) The amendment to this subdivision made during the  
11 2005-06 Regular Session of the Legislature that is set forth in  
12 paragraph (1) is declaratory of existing law.

13 (e) This section shall become operative January 1, 1996.

14 ~~SEC. 15.~~

15 *SEC. 14.* Section 34312 of the Health and Safety Code is  
16 amended to read:

17 34312. Within its area of operation, an authority may  
18 undertake any of the following:

19 (a) Prepare, carry out, acquire, lease, and operate housing  
20 projects for persons of low income, as authorized by this chapter,  
21 and housing developments for persons of low income, as  
22 authorized by Part 3 (commencing with Section 50900) of  
23 Division 31.

24 (b) Provide for the construction, reconstruction, improvement,  
25 alteration, or repair of all or part of any housing project.

26 (c) Provide leased housing to persons of low income.

27 (d) (1) Provide financing for the acquisition, construction,  
28 rehabilitation, refinancing, or development of dwelling  
29 accommodations for persons of low income, and for other  
30 persons when acting pursuant to the authorization contained in  
31 Part 13 (commencing with Section 37910) of this division or Part  
32 3 (commencing with Section 50900) of Division 31, subject only  
33 to the limitations on income of borrowers or residents prescribed  
34 by the statutory provisions under which the authority is acting.  
35 With respect to financing activities conducted pursuant to Part 3  
36 (commencing with Section 50900) or Part 4 (commencing with  
37 Section 51600) of Division 31, the authority shall obtain  
38 certification as a qualified mortgage lender pursuant to Section  
39 50094.

(2) When issuing tax-exempt bonds for purposes of this section, the regulatory agreement entered into by the agency shall require that following the expiration or termination of the qualified project period, except in the event of foreclosure and redemption of the bonds, deed in lieu of foreclosure, eminent domain, or action of a federal agency preventing enforcement, units required to be reserved for occupancy for low- or very low income households and financed *or refinanced* with proceeds of bonds issued ~~or refunded pursuant to this section~~ on or after January 1, 2006, *or refinanced with the proceeds of bonds issued pursuant to Section 53583 of the Government Code or any charter city authority on or after January 1, 2007*, shall remain available to any eligible household occupying a reserved unit at the date of expiration or termination, at a rent not greater than the amount set forth by the regulatory agreement prior to the date of expiration or termination, until the earliest of any of the following occur:

(A) The household's income exceeds 140 percent of the maximum eligible income specified in the regulatory agreement for reserved units.

(B) The household voluntarily moves or is evicted for "good cause." "Good cause" for the purposes of this section, means the nonpayment of rent or allegation of facts necessary to prove major, or repeated minor, violations of material provisions of the occupancy agreement which detrimentally affect the health and safety of other persons or the structure, the fiscal integrity of the development, or the purposes or special programs of the development.

(C) Thirty years after the date of the commencement of the qualified project period.

(D) The sponsor pays the relocation assistance and benefits to tenants as provided in subdivision (b) of Section 7264 of the Government Code.

(3) As used in this subdivision, "qualified project period" shall have the meaning specified in, and shall be determined in accordance with the provisions of, subsection (d) of Section 142 of the Internal Revenue Code of 1986, as amended, and United States Treasury regulations and rulings promulgated pursuant thereto.

1 (4) The amendment to this subdivision made during the  
2 2005-06 Regular Session of the Legislature that is set forth in  
3 paragraph (2) is declaratory of existing law.

4 (e) Provide counseling, referral, and advisory services to  
5 persons and families of low or moderate income in connection  
6 with the purchase, rental, occupancy, maintenance, or repair of  
7 housing.

8 (f) Provide the security which the authority deems necessary  
9 for the protection of a project and its inhabitants.

10 (g) Assist housing projects pursuant to Section 34312.3.

11 (h) Acquire, plan, undertake, construct, improve, develop,  
12 maintain, and operate land on which mobilehomes or a  
13 mobilehome park are, or may be, located, so long as not less than  
14 20 percent of the mobilehomes are designated for occupancy by,  
15 or are occupied by, persons of low income. For purposes of this  
16 subdivision, “mobilehome” has the meaning specified in Section  
17 18008, and “mobilehome park” has the meaning specified in  
18 Section 18214.

19 ~~SEC. 16.~~

20 *SEC. 15.* Section 50517.5 of the Health and Safety Code is  
21 amended to read:

22 50517.5. (a) (1) The department shall establish the Joe  
23 Serna, Jr. Farmworker Housing Grant Program under which,  
24 subject to the availability of funds therefor, grants or loans, or  
25 both, shall be made to local public entities, nonprofit  
26 corporations, limited liability companies, and limited  
27 partnerships, for the construction or rehabilitation of housing for  
28 agricultural employees and their families or for the acquisition of  
29 manufactured housing as part of a program to address and  
30 remedy the impacts of current and potential displacement of  
31 farmworker families from existing labor camps, mobilehome  
32 parks, or other housing. Under this program, grants or loans, or  
33 both, may also be made for the cost of acquiring the land and any  
34 building thereon in connection with housing assisted pursuant to  
35 this section and for the construction and rehabilitation of related  
36 support facilities necessary to the housing. In its administration  
37 of this program, the department shall disburse grants or loans, or  
38 both, to the local public entities, nonprofit corporations, limited  
39 liability companies, or limited partnerships or may, at the request  
40 of the local public entity, nonprofit corporation, limited liability

1 company, or limited partnership that sponsors and supervises the  
2 rehabilitation or construction program, disburse grant funds to  
3 agricultural employees who are participants in a rehabilitation or  
4 construction program sponsored and supervised by the local  
5 public entity, nonprofit corporation, limited liability company, or  
6 limited partnership. No part of a grant or loan made pursuant to  
7 this section may be used for project organization or planning.

8 (2) Notwithstanding any other provision of this chapter, upon  
9 the request of a grantee the program also may loan funds to a  
10 grantee at no more than 3 percent simple interest. Principal and  
11 accumulated interest is due and payable upon completion of the  
12 term of the loan. For any loan made pursuant to this subdivision,  
13 the performance requirements of the lien shall remain in effect  
14 for a period of no less than the original term of the loan.

15 (3) The program shall be administered by the Director of  
16 Housing and Community Development and officers and  
17 employees of the department as he or she may designate.

18 (b) (1) The Joe Serna, Jr. Farmworker Housing Grant Fund is  
19 hereby created in the State Treasury. Notwithstanding Section  
20 13340 of the Government Code, all money in the fund is  
21 continuously appropriated to the department for making grants or  
22 loans, or both, pursuant to this section and Section 50517.10, for  
23 purposes of Chapter 8.5 (commencing with Section 50710), and  
24 for costs incurred by the department in administering these  
25 programs.

26 (2) There shall be paid into the fund the following:

27 (A) Any moneys appropriated and made available by the  
28 Legislature for purposes of the fund.

29 (B) Any moneys that the department receives in repayment or  
30 return of grants or loans from the fund, including any interest  
31 therefrom.

32 (C) Any other moneys that may be made available to the  
33 department for the purposes of this chapter from any other source  
34 or sources.

35 (D) All moneys appropriated to the department for the  
36 purposes of Chapter 8.5 (commencing with Section 50710) and  
37 any moneys received by the department from the occupants of  
38 housing or shelter provided pursuant to Chapter 8.5  
39 (commencing with Section 50710). These moneys shall be

1 separately accounted for from the other moneys deposited in the  
2 fund.

3 (c) (1) Grants and loans made pursuant to this section shall be  
4 matched by grantees with at least equal amounts of federal  
5 moneys, other cash investments, or in-kind contributions.

6 (2) For grant or loan requests of not more than five hundred  
7 thousand dollars (\$500,000), the department may waive a part of  
8 the matching fund requirement in this subdivision if the grantee  
9 demonstrates an inability, as may be established by the  
10 department in “Notices of Funding Availability,” to secure  
11 adequate financing from other sources. Not more than 5 percent  
12 of the total amount appropriated to the department for the  
13 purposes of this section may be used to meet grant or loan  
14 requests in which a part of the matching fund requirement has  
15 been waived pursuant to this paragraph.

16 (d) With respect to the supervision of grantees, the department  
17 shall do the following:

18 (1) Establish minimum capital reserves to be maintained by  
19 grantees.

20 (2) Fix and alter from time to time a schedule of rents that may  
21 be necessary to provide residents of housing assisted pursuant to  
22 this section with affordable rents to the extent consistent with the  
23 maintenance of the financial integrity of the housing project. No  
24 grantee shall increase the rent on any unit constructed or  
25 rehabilitated with the assistance of funds provided pursuant to  
26 this section without the prior permission of the department,  
27 which shall be given only if the grantee affirmatively  
28 demonstrates that the increase is required to defray necessary  
29 operating costs or avoid jeopardizing the fiscal integrity of the  
30 housing project.

31 (3) Determine standards for, and control selection by grantees  
32 of, tenants and subsequent purchasers of housing constructed or  
33 rehabilitated with the assistance of funds provided pursuant to  
34 this section.

35 (4) (A) Require as a condition precedent to a grant or loan, or  
36 both, of funds that the applicant have site control that is  
37 satisfactory to the department; that the grantee be record owner  
38 in fee of the assisted real property or provide other security  
39 including a lien on the manufactured home that is satisfactory to  
40 the department to ensure compliance with the construction,

1 financial, and program obligations; and that the grantee shall  
2 have entered into a written agreement with the department  
3 binding upon the grantee and successors in interest to the grantee.  
4 The agreement shall include the conditions under which the  
5 funds advanced may be repaid. The agreement shall include  
6 provisions for a lien on the assisted real property or  
7 manufactured home in favor of the State of California for the  
8 purpose of securing performance of the agreement. The  
9 agreement shall also provide that the lien shall endure until  
10 released by the Director of Housing and Community  
11 Development.

12 (B) If funds granted or loaned pursuant to this section  
13 constitute less than 25 percent of the total development cost or  
14 value, whichever is applicable, of a project assisted under this  
15 section, the department may adopt, by regulation, criteria for  
16 determining the number of units in a project to which the  
17 restrictions on occupancy contained in the agreement apply. In  
18 no event may these regulations provide for the application of the  
19 agreement to a percentage of units in a project that is less than  
20 the percentage of total development costs that funds granted or  
21 loaned pursuant to this section represent.

22 (C) Contemporaneously with the disbursement of the initial  
23 funds to a grantee, the department shall cause to be recorded, in  
24 the office of the county recorder of the county in which the  
25 assisted real property is located, a notice of lien executed by the  
26 Director of Housing and Community Development. The notice of  
27 lien shall refer to the agreement required by this paragraph for  
28 which it secures and it shall include a legal description of the  
29 assisted real property that is subject to the lien. The notice of lien  
30 shall be indexed by the recorder in the Grantor Index to the name  
31 of the grantee and in the Grantee Index to the name of the State  
32 of California, Department of Housing and Community  
33 Development. For manufactured housing, the liens shall be  
34 recorded by the department in the same manner as other  
35 manufactured housing liens are recorded. The department shall  
36 adopt by regulation criteria for the determination of the lien  
37 period. This regulation shall take into account whether the  
38 property is held by multifamily rental, single-family ownership,  
39 or cooperative ownership and whether it is new construction or

1 rehabilitative construction. The lien period for manufactured  
2 housing liens for manufactured homes shall not exceed 10 years.

3 (D) Pursuant to regulations adopted by the department, the  
4 department may execute and cause to be recorded in the office of  
5 the recorder of the county in which a notice of lien has been  
6 recorded, or the department, as appropriate, a subordination of  
7 the lien. The regulations adopted by the department shall provide  
8 that any subordination of the lien shall not jeopardize the security  
9 interest of the state and shall further the interest of farmworker  
10 housing. The recitals contained in the subordination shall be  
11 conclusive in favor of any bona fide purchaser or lender relying  
12 thereon.

13 (E) Prior to funds granted pursuant to this section being used  
14 to finance the acquisition of a manufactured home, the grantee  
15 shall ensure that the home either is already installed in a location  
16 where it will be occupied by the eligible household or that a  
17 location has been leased or otherwise made available for the  
18 manufactured home to be occupied by the eligible household.

19 (5) Regulate the terms of occupancy agreements or resale  
20 controls, to be used in housing assisted pursuant to this section.

21 (6) Provide linguistically appropriate services and  
22 publications, or require grantees to do so, as necessary to  
23 implement the purposes of this section.

24 (7) The agreement between the department and the grantee  
25 shall provide, among other things, that both of the following  
26 occur:

27 (A) Upon the sale or conveyance of the real property, or any  
28 part thereof, for use other than for agricultural employee  
29 occupancy, the grantee or its successors shall, as a condition for  
30 the release of the lien provided pursuant to paragraph (4), repay  
31 to the fund the department's grant and loan funds.

32 (B) Upon the sale or conveyance of the real property or any  
33 part thereof for continued agricultural employee occupancy, the  
34 transferee shall assume the obligation of the transferor and the  
35 real property shall be transferred to the new owner; provided that  
36 the transferee agrees to abide by the agreement entered into  
37 between the transferor and the department and that the new  
38 owner takes the property subject to the lien provided pursuant to  
39 paragraph (4), except that this lien shall, at the time of the  
40 transfer of the property to the new owner, be extended for an

1 additional lien period determined by the department pursuant to  
2 paragraph (4), and the new owner shall not be credited with the  
3 lien period that had run from the time the transferor had acquired  
4 the property to the time of transfer to the new owner, unless the  
5 department determines that it is in the best interest of the state  
6 and consistent with the intent of this section to so credit the lien  
7 period to the new owner. However, the lien shall have priority as  
8 of the recording date of the lien for the original grantee, pursuant  
9 to paragraph (4).

10 (e) The department may do any of the following with respect  
11 to grantees:

12 (1) Through its agents or employees enter upon and inspect the  
13 lands, buildings, and equipment of a grantee, including books  
14 and records, at any time before, during, or after construction or  
15 rehabilitation of units assisted pursuant to this section. However,  
16 there shall be no entry or inspection of any unit that is occupied,  
17 whether or not any occupant is actually present, without the  
18 consent of the occupant.

19 (2) Supervise the operation and maintenance of any housing  
20 assisted pursuant to this section and order repairs as may be  
21 necessary to protect the public interest or the health, safety, or  
22 welfare of occupants of the housing.

23 (f) The department shall include in its annual report required  
24 by Section 50408, a current report of the Joe Serna, Jr.  
25 Farmworker Housing Grant Program. The report shall include,  
26 but need not be limited to, (1) the number of households assisted,  
27 (2) the average income of households assisted and the  
28 distribution of annual incomes among assisted households, (3)  
29 the rents paid by households assisted, (4) the number and amount  
30 of grants or loans, or both, made to each grantee in the preceding  
31 year, (5) the dollar value of funding derived from sources other  
32 than the state for each project receiving a grant or loan, or both,  
33 under this section, and an identification of each source, (6)  
34 recommendations, as needed, to improve operations of the  
35 program and respecting the desirability of extending its  
36 application to other groups in rural areas identified by the  
37 department as having special need for state housing assistance,  
38 and (7) the number of manufactured housing units assisted under  
39 this section.

40 (g) As used in this section:



(1) “Agricultural employee” has the same meaning as specified in subdivision (b) of Section 1140.4 of the Labor Code, but also includes any person who works at a packing shed for a labor contractor or other entity that contracts with an agricultural employer in order to perform services in connection with handling, drying, packing, or storing any agricultural commodity in its raw or natural state, whether or not this person is encompassed within the definition specified in subdivision (b) of Section 1140.4 of the Labor Code.

(2) “Grantee” means the local public entity, nonprofit corporation, limited liability company, or limited partnership that is awarded the grant or loan, or both, under this section, and, at the request thereof, may include an agricultural employee receiving direct payment of a grant for rehabilitation under this section who occupies the assisted housing both before and after the rehabilitation and may include an agricultural employee receiving direct payment of a grant for construction under this section who will occupy the assisted housing and who is a participant in a rehabilitation or construction program sponsored and supervised by a local public entity, nonprofit corporation, limited liability company, or limited partnership.

(3) “Housing” may include, but is not necessarily limited to, conventionally constructed units and manufactured housing installed pursuant to either Section 18551 or 18613.

(4) “Limited liability company” means a limited liability company where all the members are nonprofit public benefit corporations.

(5) “Limited partnership” means a limited partnership where all of the general partners are either nonprofit public benefit corporations, limited liability companies, or a combination of nonprofit public benefit corporations and limited liability companies.

(h) The department may provide the assistance offered pursuant to this chapter in any area where there is a substantial unmet need for farmworker housing.

~~SEC. 17.~~

*SEC. 16.* Section 50530.5 of the Health and Safety Code is amended to read:

50530.5. As used in this chapter:

1 (a) “Housing” includes, but is not limited to, manufactured  
2 housing.

3 (b) “Predevelopment loan” means a loan for required  
4 expenses, other than administrative and construction, which are  
5 incurred by eligible sponsors in the process of, and prior to,  
6 securing long-term financing for construction, conversion,  
7 preservation, or rehabilitation of assisted housing, and which are  
8 recoverable once long-term financing is obtained. The purposes  
9 for which predevelopment loans may be made include, but are  
10 not limited to, the costs of, or the costs associated with, land  
11 purchase or options to buy land; options or deposits to buy or  
12 preserve existing government-assisted rental housing for the  
13 purpose of preserving the affordability of the units; professional  
14 services such as architectural, engineering, or legal services;  
15 permit or application fees; and bonding, site preparation, related  
16 water or sewer development, or material expenses. In addition,  
17 the loans may be made for the purpose of extending the time for  
18 exercising an option or extending the time period for repayment  
19 of an advance previously obtained. These loan funds may be  
20 deposited in banks as compensating balances to establish lines of  
21 credit for participating nonprofit corporations.

22 (c) “Fund” means the Predevelopment Loan Fund which is  
23 replenished continuously by repayments of principal on loans  
24 made from the fund.

25 (d) “Land purchase loan” means a loan for the costs incurred  
26 by an eligible sponsor in obtaining an option on, or purchasing  
27 suitable land for, the future development of assisted housing,  
28 including, but not limited to, costs associated with transfer of  
29 title, appraisals, payment of property taxes, surveys, and  
30 necessary maintenance of the land.

31 (e) “Eligible sponsors” means local governmental agencies,  
32 nonprofit corporations, including cooperative housing  
33 corporations, limited liability companies where all *of* the  
34 members are nonprofit public benefit corporations, and limited  
35 partnerships, as defined in subdivision (f).

36 (f) “Limited partnerships” means limited partnerships where  
37 all of the general partners are either nonprofit public benefit  
38 corporations, limited liability companies where all of the  
39 members are nonprofit public benefit corporations, or a  
40 combination of nonprofit public benefit corporations and limited

1 liability companies where all of the members are nonprofit public  
2 benefit corporations.

3 ~~SEC. 18.~~

4 *SEC. 17.* Section 50558 of the Health and Safety Code is  
5 amended and renumbered to read:

6 17921.5. Except as provided in Section 18930, the  
7 department shall prepare and adopt minimum standards  
8 regulating the use and application of cellular concrete as it  
9 determines are reasonably necessary for the protection of life and  
10 property.

11 ~~SEC. 19~~

12 *SEC. 18.* Section 52080 of the Health and Safety Code is  
13 amended to read:

14 52080. (a) (1) A multifamily rental housing development  
15 financed, or for which financing has been extended or committed  
16 pursuant to this chapter from the proceeds of sale of each bond  
17 issue, shall at all times during the qualified project period meet  
18 the requirement of subparagraph (A) or (B), whichever is elected  
19 by the issuer at the time of issuance of the issue for each  
20 development:

21 (A) Twenty percent or more of the residential units in the  
22 development shall be occupied by individuals whose income is  
23 50 percent or less of area median income.

24 (B) Forty percent or more of the residential units in the  
25 development shall be occupied by individuals whose income is  
26 60 percent or less of area median income.

27 As used in this section, “qualified project period,” “income,”  
28 and “area median income” shall have the meanings specified in,  
29 and shall be determined in accordance with the provisions of,  
30 subsection (d) of Section 142 of the Internal Revenue Code of  
31 1986, as amended, and United States Treasury regulations and  
32 rulings promulgated thereto.

33 With respect to a development for which the issuer has elected  
34 to meet the requirement of subparagraph (A), the rental payments  
35 paid by the occupants of the units meeting the requirement of  
36 subparagraph (A) (excluding any supplemental rental assistance  
37 from the state, the federal government, or any other public  
38 agency to those occupants or on behalf of those units) shall not  
39 exceed 30 percent of 50 percent of area median income. With  
40 respect to a development for which the issuer has elected to meet

1 the requirement of subparagraph (B), the rental payments paid by  
2 the occupants of the units meeting the requirement of  
3 subparagraph (B) (excluding any supplemental rental assistance  
4 from the state, the federal government, or any other public  
5 agency to those occupants or on behalf of those units) shall not  
6 exceed 30 percent of 60 percent of area median income.

7 (2) The governing body shall ensure that the local agency  
8 issuing permits for the acquisition, construction, rehabilitation,  
9 refinancing, or development of the multifamily rental housing  
10 development shall consider opportunities to contribute to the  
11 economic feasibility of the units and to the provision of units for  
12 very low income households through concessions and  
13 inducements including, but not limited to, the following:

14 (A) Reductions in construction and design requirements.

15 (B) Reductions in setback and square footage requirements  
16 and the ratio of vehicular parking spaces that would otherwise be  
17 required.

18 (C) Granting density bonuses.

19 (D) Providing expedited processing of permits.

20 (E) Modifying zoning code requirements to allow mixed use  
21 zoning.

22 (F) Reducing or eliminating fees and charges for filing and  
23 processing applications, petitions, permits, planning services,  
24 water and sewer connections, and other fees and charges.

25 (G) Reducing or eliminating requirements relating to monetary  
26 exactions, dedications, reservations of land, or construction of  
27 public facilities.

28 (H) Other financial incentives or concessions for the  
29 multifamily rental housing development which result in  
30 identifiable cost reductions, as determined by the governing  
31 body. The governing body shall ensure that the local agency  
32 issuing permits for the development considers its responsibilities  
33 under this section and makes a good faith effort to enhance the  
34 feasibility of the project and to provide housing for lower income  
35 households and very low income households.

36 (3) The governing body shall not permit a selection criteria to  
37 be applied to certificate holders under Section 8 of the United  
38 States Housing Act of 1937 (42 U.S.C. Sec. 1437f) that is more  
39 burdensome than the criteria applied to all other prospective  
40 tenants.

1 (4) It is the intent of the Legislature that the governing body  
2 finance projects that assist in meeting the urgent need for  
3 providing shelter for lower income households, very low income  
4 households, and persons and families of low or moderate income.  
5 To that end, the quality of materials and the amenities provided  
6 should not be excessive so as to hinder the prospect of achieving  
7 the stated goal.

8 (5) It is the intent of the Legislature that the governing body  
9 finance projects that assist in meeting the urgent need for  
10 providing housing for families. To that end, developments with  
11 three- and four-bedroom units affordable to larger families shall  
12 have priority over competing developments.

13 (b) As a condition of financing pursuant to this chapter, the  
14 housing sponsor shall enter into a regulatory agreement with the  
15 city or county providing that units reserved for occupancy by  
16 lower income households remain available on a priority basis for  
17 occupancy until the bonds are retired. As a condition of financing  
18 provided by bonds issued on or after January 1, 1991, the  
19 housing sponsor shall enter into a regulatory agreement with the  
20 city or county providing that units reserved for occupancy by  
21 lower income households remain available on a priority basis for  
22 occupancy for the qualified project period. The regulatory  
23 agreement shall contain a provision making the covenants and  
24 conditions of the agreement binding upon successors in interest  
25 of the housing sponsor. The regulatory agreement shall be  
26 recorded in the office of the county recorder of the county in  
27 which the multifamily rental housing development is located.  
28 The regulatory agreement shall be recorded in the  
29 grantor-grantee index to the name of the property owner as  
30 grantor and to the name of the city or county as grantee.

31 (c) The governing body shall ensure that units occupied by  
32 lower income households are of comparable quality and offer a  
33 range of sizes and number of bedrooms comparable to the units  
34 that are available to other tenants.

35 (d) (1) The city or county shall give priority to processing  
36 construction loans and mortgage loans or may take other steps  
37 such as reducing loan fees or other local fees for multifamily  
38 rental developments which incorporate innovative and  
39 energy-efficient techniques that reduce development or operating  
40 costs and that have the lowest feasible per unit cost, as

1 determined by the city or county, based on efficiency of design  
2 or the elimination of improvements that are not required by  
3 applicable building standards.

4 (2) The city or county shall give equal priority to processing  
5 construction loans and mortgage loans or may take other steps  
6 such as reducing loan fees or other local fees on multifamily  
7 rental housing developments that do any of the following:

8 (A) Utilize federal housing or development assistance.

9 (B) Utilize redevelopment funds or other local financial  
10 assistance, including, but not limited to, contributions of land.

11 (C) Are sponsored by a nonprofit housing organization.

12 (D) Provide a significant number of housing units, as  
13 determined by the city or county, as part of a coordinated jobs  
14 and housing plan adopted by the city or county.

15 (E) Exceeds the ratios specified in subparagraph (A) or (B) of  
16 paragraph (1) of subdivision (a) or restricts the occupancy for  
17 these units for the longest period beyond the required minimum  
18 number of years.

19 (e) (1) New and existing rental housing developments may be  
20 syndicated after prior written approval of the governing body.  
21 The governing body shall grant that approval only after the city  
22 or county determines that the terms and conditions of the  
23 syndication comply with this section.

24 (2) The terms and conditions of the syndication shall not  
25 reduce or limit any of the requirements of this chapter or  
26 regulations adopted or documents executed pursuant to this  
27 chapter. No requirements of the city or county shall be  
28 subordinated to the syndication agreement. A syndication shall  
29 not result in the provision of fewer assisted units, or the reduction  
30 of any benefits or services, than were in existence prior to the  
31 syndication agreement.

32 (f) At the option of the city or county, the amendments to this  
33 subdivision made by Chapter 907 of the Statutes of 1983 may be  
34 made applicable to any multifamily rental housing development  
35 financed by the issuance, on or after September 3, 1982, of bonds  
36 authorized by this chapter.

37 (g) Following the expiration or termination of the qualified  
38 project period, except in the event of foreclosure and redemption  
39 of the bonds, deed in lieu of foreclosure, eminent domain, or  
40 action of a federal agency preventing enforcement, units required

1 to be reserved for occupancy pursuant to subdivision (a) and  
2 ~~financed or refinanced~~ with proceeds of bonds issued ~~or refunded~~  
3 ~~pursuant to this section~~ on or after January 1, 1991, ~~or refinanced~~  
4 ~~with the proceeds of bonds issued pursuant to Section 53583 of~~  
5 ~~the Government Code or any charter city authority on or after~~  
6 ~~January 1, 2007~~, shall remain available to any eligible household  
7 occupying a reserved unit at the date of expiration or termination,  
8 at a rent not greater than the amount set forth by subdivision (a),  
9 until the earliest of any of the following occur:

10 (1) The household's income exceeds 140 percent of the  
11 maximum eligible income specified in subdivision (a).

12 (2) The household voluntarily moves or is evicted for "good  
13 cause." "Good cause" for the purposes of this section, means the  
14 nonpayment of rent or allegation of facts necessary to prove  
15 major, or repeated minor, violations of material provisions of the  
16 occupancy agreement which detrimentally affect the health and  
17 safety of other persons or the structure, the fiscal integrity of the  
18 development, or the purposes or special programs of the  
19 development.

20 (3) Thirty years after the date of the commencement of the  
21 qualified project period.

22 (4) The sponsor pays the relocation assistance and benefits to  
23 tenants as provided in subdivision (b) of Section 7264 of the  
24 Government Code.

25 (5) The amendment to this subdivision made during the  
26 2005-06 Regular Session of the Legislature is declaratory of  
27 existing law.

28 (h) During the three years prior to expiration of the qualified  
29 project period, the sponsor shall continue to make available to  
30 eligible households reserved units that have been vacated to the  
31 same extent that nonreserved units are made available to  
32 noneligible households.

33 (i) This section shall not be construed to require a city or  
34 county to monitor the sponsor's compliance with the provisions  
35 of subdivision (g).

36 (j) The requirements of subdivisions (g) to (i), inclusive, shall  
37 be contained in a regulatory agreement required pursuant to  
38 subdivision (b).

39 (k) Notwithstanding Section 1461 of the Civil Code, the  
40 provisions of this section shall run with the land and may be

1 enforced either in law or in equity by any resident, local agency,  
2 entity, or by any other person adversely affected by an owner's  
3 failure to comply with this section.

4 *SEC. 19. Section 12206 of the Revenue and Taxation Code is*  
5 *amended to read:*

6 12206. (a) (1) There shall be allowed as a credit against the  
7 "tax" (as defined by Section 12201) a state low-income housing  
8 tax credit in an amount equal to the amount determined in  
9 subdivision (c), computed in accordance with Section 42 of the  
10 Internal Revenue Code, except as otherwise provided in this  
11 section.

12 (2) "Taxpayer," for purposes of this section, means the sole  
13 owner in the case of a "C" corporation, the partners in the case of  
14 a partnership, and the shareholders in the case of an "S"  
15 corporation.

16 (3) "Housing sponsor," for purposes of this section, means the  
17 sole owner in the case of a "C" corporation, the partnership in the  
18 case of a partnership, and the "S" corporation in the case of an  
19 "S" corporation.

20 (b) (1) The amount of the credit allocated to any housing  
21 sponsor shall be authorized by the California Tax Credit  
22 Allocation Committee, or any successor thereof, based on a  
23 project's need for the credit for economic feasibility in  
24 accordance with the requirements of this section.

25 (A) The low-income housing project shall be located in  
26 California and shall meet either of the following requirements:

27 (i) The project's housing sponsor shall have been allocated by  
28 the California Tax Credit Allocation Committee a credit for  
29 federal income tax purposes under Section 42 of the Internal  
30 Revenue Code.

31 (ii) It shall qualify for a credit under Section 42(h)(4)(B) of the  
32 Internal Revenue Code.

33 (B) The California Tax Credit Allocation Committee shall not  
34 require fees for the credit under this section in addition to those  
35 fees required for applications for the tax credit pursuant to  
36 Section 42 of the Internal Revenue Code. The committee may  
37 require a fee if the application for the credit under this section is  
38 submitted in a calendar year after the year the application is  
39 submitted for the federal tax credit.



1 (2) (A) The California Tax Credit Allocation Committee shall  
2 certify to the housing sponsor the amount of tax credit under this  
3 section allocated to the housing sponsor for each credit period.

4 (B) In the case of a partnership or an “S” corporation, the  
5 housing sponsor shall provide a copy of the California Tax Credit  
6 Allocation Committee certification to the taxpayer.

7 (C) The taxpayer shall attach a copy of the certification to any  
8 return upon which a tax credit is claimed under this section.

9 (D) In the case of a failure to attach a copy of the certification  
10 for the year to the return in which a tax credit is claimed under  
11 this section, no credit under this section shall be allowed for that  
12 year until a copy of that certification is provided.

13 (E) All elections made by the taxpayer pursuant to Section 42  
14 of the Internal Revenue Code shall apply to this section.

15 (F) No credit shall be allocated under this section to buildings  
16 located in a difficult development area or a qualified census tract  
17 as defined in Section 42 of the Internal Revenue Code for which  
18 the eligible basis of a new building or the rehabilitation  
19 expenditure of an existing building is 130 percent of that amount  
20 pursuant to Section 42(d)(5)(C) of the Internal Revenue Code,  
21 unless the committee reduces the amount of federal credit, with  
22 the approval of the applicant, so that the combined amount of  
23 federal and state credit shall not exceed the total credit allowable  
24 pursuant to this section and Section 42(b) of the Internal Revenue  
25 Code, computed without regard to Section 42(d)(5)(C) of the  
26 Internal Revenue Code.

27 (c) Section 42(b) of the Internal Revenue Code shall be  
28 modified as follows:

29 (1) In the case of any qualified low-income building that  
30 receives an allocation after 1989 and is a new building not  
31 federally subsidized, the term “applicable percentage” means the  
32 following:

33 (A) For each of the first three years, the percentage prescribed  
34 by the Secretary of the Treasury for new buildings that are not  
35 federally subsidized for the taxable year, determined in  
36 accordance with the requirements of Section 42(b)(2) of the  
37 Internal Revenue Code, in lieu of the percentage prescribed in  
38 Section 42(b)(1)(A) of the Internal Revenue Code.

39 (B) For the fourth year, the difference between 30 percent and  
40 the sum of the applicable percentages for the first three years.

(2) In the case of any qualified low-income building that receives an allocation after 1989 and that is a new building that is federally subsidized or that is an existing building that is “at risk of conversion,” the term “applicable percentage” means the following:

(A) For each of the first three years, the percentage prescribed by the Secretary of the Treasury for new buildings that are federally subsidized for the taxable year.

(B) For the fourth year, the difference between 13 percent and the sum of the applicable percentages for the first three years.

(3) For purposes of this section, the term “at risk of conversion,” with respect to an existing property means a property that satisfies all of the following criteria:

(A) The property is a multifamily rental housing development in which at least 50 percent of the units receive governmental assistance pursuant to any of the following:

(i) New construction, substantial rehabilitation, moderate rehabilitation, property disposition, and loan management set-aside programs, or any other program providing project-based assistance pursuant to Section 8 of the United States Housing Act of 1937, Section 1437f of Title 42 of the United States Code, as amended.

(ii) The Below-Market-Interest-Rate Program pursuant to Section 221(d)(3) of the National Housing Act, Sections 1715l(d)(3) and (5) of Title 12 of the United States Code.

(iii) Section 236 of the National Housing Act, Section 1715z-1 of Title 12 of the United States Code.

(iv) Programs for rent supplement assistance pursuant to Section 101 of the Housing and Urban Development Act of 1965, Section 1701s of Title 12 of the United States Code, as amended.

(v) Programs pursuant to Section 515 of the Housing Act of 1949, Section 1485 of Title 42 of the United States Code, as amended.

(vi) The low-income housing credit program set forth in Section 42 of the Internal Revenue Code, ~~provided that the property is not eligible to receive an allocation of tax-exempt private activity mortgage revenue bonds from the California Debt Limit Allocation Committee.~~

(B) The restrictions on rent and income levels will terminate or the federal insured mortgage on the property is eligible for

1 ~~prepayment anytime in the five calendar years after the year~~  
2 ~~within five years before or after the date of application to the~~  
3 ~~California Tax Credit Allocation Committee.~~

4 (C) The entity acquiring the property enters into a regulatory  
5 agreement that requires the property to be operated in accordance  
6 with the requirements of this section for a period equal to the  
7 greater of 55 years or the life of the property.

8 (D) The property satisfies the requirements of Section 42(e) of  
9 the Internal Revenue Code regarding rehabilitation expenditures,  
10 except that the provisions of Section 42(e)(3)(A)(ii)(I) shall not  
11 apply.

12 (d) The term “qualified low-income housing project” as  
13 defined in Section 42(c)(2) of the Internal Revenue Code is  
14 modified by adding the following requirements:

15 (1) The taxpayer shall be entitled to receive a cash distribution  
16 from the operations of the project, after funding required  
17 reserves, which, at the election of the taxpayer, is equal to:

18 (A) An amount not to exceed 8 percent of the lesser of:

19 (i) The owner equity which shall include the amount of the  
20 capital contributions actually paid to the housing sponsor and  
21 shall not include any amounts until they are paid on an investor  
22 note.

23 (ii) Twenty percent of the adjusted basis of the building as of  
24 the close of the first taxable year of the credit period.

25 (B) The amount of the cashflow from those units in the  
26 building that are not low-income units. For purposes of  
27 computing cashflow under this subparagraph, operating costs  
28 shall be allocated to the low-income units using the “floor space  
29 fraction,” as defined in Section 42 of the Internal Revenue Code.

30 (C) Any amount allowed to be distributed under subparagraph  
31 (A) that is not available for distribution during the first five years  
32 of the compliance period may accumulate and be distributed any  
33 time during the first 15 years of the compliance period but not  
34 thereafter.

35 (2) The limitation on return shall apply in the aggregate to the  
36 partners if the housing sponsor is a partnership and in the  
37 aggregate to the shareholders if the housing sponsor is an “S”  
38 corporation.

39 (3) The housing sponsor shall apply any cash available for  
40 distribution in excess of the amount eligible to be distributed

1 under paragraph (1) to reduce the rent on rent-restricted units or  
2 to increase the number of rent-restricted units subject to the tests  
3 of Section 42(g)(1) of the Internal Revenue Code.

4 (e) The provisions of Section 42(f) of the Internal Revenue  
5 Code shall be modified as follows:

6 (1) The term “credit period” as defined in Section 42(f)(1) of  
7 the Internal Revenue Code is modified by substituting “four  
8 taxable years” for “10 taxable years.”

9 (2) The special rule for the first taxable year of the credit  
10 period under Section 42(f)(2) of the Internal Revenue Code shall  
11 not apply to the tax credit under this section.

12 (3) Section 42(f)(3) of the Internal Revenue Code is modified  
13 to read:

14 If, as of the close of any taxable year in the compliance period,  
15 after the first year of the credit period, the qualified basis of any  
16 building exceeds the qualified basis of that building as of the  
17 close of the first year of the credit period, the housing sponsor, to  
18 the extent of its tax credit allocation, shall be eligible for a credit  
19 on the excess in an amount equal to the applicable percentage  
20 determined pursuant to subdivision (c) for the four-year period  
21 beginning with the later of the taxable years in which the increase  
22 in qualified basis occurs.

23 (f) The provisions of Section 42(h) of the Internal Revenue  
24 Code shall be modified as follows:

25 (1) Section 42(h)(2) of the Internal Revenue Code shall not be  
26 applicable and instead the following provisions shall be  
27 applicable:

28 The total amount for the four-year credit period of the housing  
29 credit dollars allocated in a calendar year to any building shall  
30 reduce the aggregate housing credit dollar amount of the  
31 California Tax Credit Allocation Committee for the calendar year  
32 in which the allocation is made.

33 (2) Paragraphs (3), (4), (5), (6)(E)(i)(II), (6)(F), (6)(G), (6)(I),  
34 (7), and (8) of Section 42(h) of the Internal Revenue Code shall  
35 not be applicable.

36 (g) The aggregate housing credit dollar amount that may be  
37 allocated annually by the California Tax Credit Allocation  
38 Committee pursuant to this section, Section 17058, and Section  
39 23610.5 shall be an amount equal to the sum of all the following:

1 (1) Seventy million dollars (\$70,000,000) for the 2001  
2 calendar year, and, for the 2002 calendar year and each calendar  
3 year thereafter, seventy million dollars (\$70,000,000) increased  
4 by the percentage, if any, by which the Consumer Price Index for  
5 the preceding calendar year exceeds the Consumer Price Index  
6 for the 2001 calendar year. For the purposes of this paragraph,  
7 the term “Consumer Price Index” means the last Consumer Price  
8 Index for all urban consumers published by the federal  
9 Department of Labor.

10 (2) The unused housing credit ceiling, if any, for the preceding  
11 calendar years.

12 (3) The amount of housing credit ceiling returned in the  
13 calendar year. For purposes of this paragraph, the amount of  
14 housing credit dollar amount returned in the calendar year equals  
15 the housing credit dollar amount previously allocated to any  
16 project that does not become a qualified low-income housing  
17 project within the period required by this section or to any project  
18 with respect to which an allocation is canceled by mutual consent  
19 of the California Tax Credit Allocation Committee and the  
20 allocation recipient.

21 (h) The term “compliance period” as defined in Section  
22 42(i)(1) of the Internal Revenue Code is modified to mean, with  
23 respect to any building, the period of 30 consecutive taxable  
24 years beginning with the first taxable year of the credit period  
25 with respect thereto.

26 (i) (1) Section 42(j) of the Internal Revenue Code shall not be  
27 applicable and the provisions in paragraph (2) shall be substituted  
28 in its place.

29 (2) The requirements of this section shall be set forth in a  
30 regulatory agreement between the California Tax Credit  
31 Allocation Committee and the housing sponsor, which agreement  
32 shall be subordinated, when required, to any lien or encumbrance  
33 of any banks or other institutional lenders to the project. The  
34 regulatory agreement entered into pursuant to subdivision (f) of  
35 Section 50199.14 of the Health and Safety Code, shall apply,  
36 providing the agreement includes all of the following provisions:

37 (A) A term not less than the compliance period.

38 (B) A requirement that the agreement be filed in the official  
39 records of the county in which the qualified low-income housing  
40 project is located.

1 (C) A provision stating which state and local agencies can  
2 enforce the regulatory agreement in the event the housing  
3 sponsor fails to satisfy any of the requirements of this section.

4 (D) A provision that the regulatory agreement shall be deemed  
5 a contract enforceable by tenants as third-party beneficiaries  
6 thereto and which allows individuals, whether prospective,  
7 present, or former occupants of the building, who meet the  
8 income limitation applicable to the building, the right to enforce  
9 the regulatory agreement in any state court.

10 (E) A provision incorporating the requirements of Section 42  
11 of the Internal Revenue Code as modified by this section.

12 (F) A requirement that the housing sponsor notify the  
13 California Tax Credit Allocation Committee or its designee and  
14 the local agency that can enforce the regulatory agreement if  
15 there is a determination by the Internal Revenue Service that the  
16 project is not in compliance with Section 42(g) of the Internal  
17 Revenue Code.

18 (G) A requirement that the housing sponsor, as security for the  
19 performance of the housing sponsor's obligations under the  
20 regulatory agreement, assign the housing sponsor's interest in  
21 rents that it receives from the project, provided that until there is  
22 a default under the regulatory agreement, the housing sponsor is  
23 entitled to collect and retain the rents.

24 (H) The remedies available in the event of a default under the  
25 regulatory agreement that is not cured within a reasonable cure  
26 period, include, but are not limited to, allowing any of the parties  
27 designated to enforce the regulatory agreement to collect all rents  
28 with respect to the project; taking possession of the project and  
29 operating the project in accordance with the regulatory  
30 agreement until the enforcer determines the housing sponsor is in  
31 a position to operate the project in accordance with the regulatory  
32 agreement; applying to any court for specific performance;  
33 securing the appointment of a receiver to operate the project; or  
34 any other relief as may be appropriate.

35 (j) (1) The committee shall allocate the housing credit on a  
36 regular basis consisting of two or more periods in each calendar  
37 year during which applications may be filed and considered. The  
38 committee shall establish application filing deadlines, the  
39 maximum percentage of federal and state low-income housing  
40 tax credit ceiling which may be allocated by the committee in

1 that period, and the approximate date on which allocations shall  
2 be made. If the enactment of federal or state law, the adoption of  
3 rules or regulations, or other similar events prevent the use of  
4 two allocation periods, the committee may reduce the number of  
5 periods and adjust the filing deadlines, maximum percentage of  
6 credit allocated, and the allocation dates.

7 (2) The committee shall adopt a qualified allocation plan, as  
8 provided in Section 42(m)(1) of the Internal Revenue Code. In  
9 adopting this plan, the committee shall comply with the  
10 provisions of Sections 42(m)(1)(B) and 42(m)(1)(C) of the  
11 Internal Revenue Code.

12 (3) Notwithstanding Section 42(m) of the Internal Revenue  
13 Code, the California Tax Credit Allocation Committee shall  
14 allocate housing credits in accordance with the qualified  
15 allocation plan and regulations, which shall include the following  
16 provisions:

17 (A) All housing sponsors, as defined by paragraph (3) of  
18 subdivision (a), shall demonstrate at the time the application is  
19 filed with the committee that the project meets the following  
20 threshold requirements:

21 (i) The housing sponsor shall demonstrate there is a need and  
22 demand for low-income housing in the community or region for  
23 which it is proposed.

24 (ii) The project's proposed financing, including tax credit  
25 proceeds, shall be sufficient to complete the project and that the  
26 proposed operating income shall be adequate to operate the  
27 project for the extended use period.

28 (iii) The project shall have enforceable financing  
29 commitments, either construction or permanent financing, for at  
30 least 50 percent of the total estimated financing of the project.

31 (iv) The housing sponsor shall have and maintain control of  
32 the site for the project.

33 (v) The housing sponsor shall demonstrate that the project  
34 complies with all applicable local land use and zoning  
35 ordinances.

36 (vi) The housing sponsor shall demonstrate that the project  
37 development team has the experience and the financial capacity  
38 to ensure project completion and operation for the extended use  
39 period.

(vii) The housing sponsor shall demonstrate the amount of tax credit that is necessary for the financial feasibility of the project and its viability as a qualified low-income housing project throughout the extended use period, taking into account operating expenses, a supportable debt service, reserves, funds set aside for rental subsidies, and required equity, and a development fee that does not exceed a specified percentage of the eligible basis of the project prior to inclusion of the development fee in the eligible basis, as determined by the committee.

(B) The committee shall give a preference to those projects satisfying all of the threshold requirements of subparagraph (A) if both of the following apply:

(i) The project serves the lowest income tenants at rents affordable to those tenants.

(ii) The project is obligated to serve qualified tenants for the longest period.

(C) In addition to the provisions of subparagraphs (A) and (B), the committee shall use the following criteria in allocating housing credits:

(i) Projects serving large families in which a substantial number, as defined by the committee, of all residential units is comprised of low-income units with three and more bedrooms.

(ii) Projects providing single room occupancy units serving very low income tenants.

(iii) Existing projects that are “at risk of conversion,” as defined by paragraph (3) of subdivision (c).

(iv) Projects for which a public agency provides direct or indirect long-term financial support for at least 15 percent of the total project development costs or projects for which the owner’s equity constitutes at least 30 percent of the total project development costs.

(v) Projects that provide tenant amenities not generally available to residents of low-income housing projects.

(4) For purposes of allocating credits pursuant to this section, the committee shall not give preference to any project by virtue of the date of submission of its application except to break a tie when two or more of the projects have an equal rating.

(k) Section 42(l) of the Internal Revenue Code shall be modified as follows:



1 The term “secretary” shall be replaced by the term “California  
2 Franchise Tax Board.”

3 (l) In the case where the state credit allowed under this section  
4 exceeds the “tax,” the excess may be carried over to reduce the  
5 “tax” in the following year, and succeeding years if necessary,  
6 until the credit has been exhausted.

7 (m) The provisions of Section 11407(a) of Public Law  
8 101-508, relating to the effective date of the extension of the  
9 low-income housing credit, shall apply to calendar years after  
10 1993.

11 (n) The provisions of Section 11407(c) of Public Law  
12 101-508, relating to election to accelerate credit, shall not apply.

13 (o) This section shall remain in effect for as long as Section 42  
14 of the Internal Revenue Code, relating to low-income housing  
15 credits, remains in effect.

16 SEC. 20. Section 17058 of the Revenue and Taxation Code is  
17 amended to read:

18 17058. (a) (1) There shall be allowed as a credit against the  
19 amount of net tax (as defined in Section 17039) a state  
20 low-income housing credit in an amount equal to the amount  
21 determined in subdivision (c), computed in accordance with the  
22 provisions of Section 42 of the Internal Revenue Code, except as  
23 otherwise provided in this section.

24 (2) “Taxpayer” for purposes of this section means the sole  
25 owner in the case of an individual, the partners in the case of a  
26 partnership, and the shareholders in the case of an “S”  
27 corporation.

28 (3) “Housing sponsor” for purposes of this section means the  
29 sole owner in the case of an individual, the partnership in the  
30 case of a partnership, and the “S” corporation in the case of an  
31 “S” corporation.

32 (b) (1) The amount of the credit allocated to any housing  
33 sponsor shall be authorized by the California Tax Credit  
34 Allocation Committee, or any successor thereof, based on a  
35 project’s need for the credit for economic feasibility in  
36 accordance with the requirements of this section.

37 (A) The low-income housing project shall be located in  
38 California and shall meet either of the following requirements:

39 (i) The project’s housing sponsor shall have been allocated by  
40 the California Tax Credit Allocation Committee a credit for

1 federal income tax purposes under Section 42 of the Internal  
2 Revenue Code.

3 (ii) It shall qualify for a credit under Section 42(h)(4)(B) of the  
4 Internal Revenue Code.

5 (B) The California Tax Credit Allocation Committee shall not  
6 require fees for the credit under this section in addition to those  
7 fees required for applications for the tax credit pursuant to  
8 Section 42 of the Internal Revenue Code. The committee may  
9 require a fee if the application for the credit under this section is  
10 submitted in a calendar year after the year the application is  
11 submitted for the federal tax credit.

12 (2) (A) The California Tax Credit Allocation Committee shall  
13 certify to the housing sponsor the amount of tax credit under this  
14 section allocated to the housing sponsor for each credit period.

15 (B) In the case of a partnership or an “S” corporation, the  
16 housing sponsor shall provide a copy of the California Tax Credit  
17 Allocation Committee certification to the taxpayer.

18 (C) The taxpayer shall, upon request, provide a copy of the  
19 certification to the Franchise Tax Board.

20 (D) All elections made by the taxpayer pursuant to Section 42  
21 of the Internal Revenue Code shall apply to this section.

22 (E) For buildings located in designated difficult development  
23 areas or qualified census tracts as defined in Section 42(d)(5)(C)  
24 of the Internal Revenue Code, credits may be allocated under this  
25 section in the amounts prescribed in subdivision (c), provided  
26 that the amount of credit allocated under Section 42 of the  
27 Internal Revenue Code is computed on 100 percent of the  
28 qualified basis of the building.

29 (c) Section 42(b) of the Internal Revenue Code shall be  
30 modified as follows:

31 (1) In the case of any qualified low-income building placed in  
32 service by the housing sponsor during 1987, the term “applicable  
33 percentage” means 9 percent for each of the first three years and  
34 3 percent for the fourth year for new buildings (whether or not  
35 the building is federally subsidized) and for existing buildings.

36 (2) In the case of any qualified low-income building that  
37 receives an allocation after 1989 and is a new building not  
38 federally subsidized, the term “applicable percentage” means the  
39 following:

1 (A) For each of the first three years, the percentage prescribed  
2 by the Secretary of the Treasury for new buildings that are not  
3 federally subsidized for the taxable year, determined in  
4 accordance with the requirements of Section 42(b)(2) of the  
5 Internal Revenue Code, in lieu of the percentage prescribed in  
6 Section 42(b)(1)(A) of the Internal Revenue Code.

7 (B) For the fourth year, the difference between 30 percent and  
8 the sum of the applicable percentages for the first three years.

9 (3) In the case of any qualified low-income building that  
10 receives an allocation after 1989 and that is a new building that is  
11 federally subsidized or that is an existing building that is “at risk  
12 of conversion,” the term “applicable percentage” means the  
13 following:

14 (A) For each of the first three years, the percentage prescribed  
15 by the Secretary of the Treasury for new buildings that are  
16 federally subsidized for the taxable year.

17 (B) For the fourth year, the difference between 13 percent and  
18 the sum of the applicable percentages for the first three years.

19 (4) For purposes of this section, the term “at risk of  
20 conversion,” with respect to an existing property means a  
21 property that satisfies all of the following criteria:

22 (A) The property is a multifamily rental housing development  
23 in which at least 50 percent of the units receive governmental  
24 assistance pursuant to any of the following:

25 (i) New construction, substantial rehabilitation, moderate  
26 rehabilitation, property disposition, and loan management  
27 set-aside programs, or any other program providing project-based  
28 assistance pursuant to Section 8 of the United States Housing Act  
29 of 1937, Section 1437f of Title 42 of the United States Code, as  
30 amended.

31 (ii) The Below-Market-Interest-Rate Program pursuant to  
32 Section 221(d)(3) of the National Housing Act, Sections  
33 1715l(d)(3) and (5) of Title 12 of the United States Code.

34 (iii) Section 236 of the National Housing Act, Section 1715z-1  
35 of Title 12 of the United States Code.

36 (iv) Programs for rent supplement assistance pursuant to  
37 Section 101 of the Housing and Urban Development Act of 1965,  
38 Section 1701s of Title 12 of the United States Code, as amended.

1 (v) Programs pursuant to Section 515 of the Housing Act of  
2 1949, Section 1485 of Title 42 of the United States Code, as  
3 amended.

4 (vi) The low-income housing *tax* credit program set forth in  
5 Section 42 of the Internal Revenue Code.

6 (B) The restrictions on rent and income levels will terminate  
7 or the federal insured mortgage on the property is eligible for  
8 prepayment anytime ~~in the five calendar years after the year~~  
9 *within five years before or after the date* of application to the  
10 California Tax Credit Allocation Committee.

11 (C) The entity acquiring the property enters into a regulatory  
12 agreement that requires the property to be operated in accordance  
13 with the requirements of this section for a period equal to the  
14 greater of 55 years or the life of the property.

15 (D) The property satisfies the requirements of Section 42(e) of  
16 the Internal Revenue Code regarding rehabilitation expenditures,  
17 except that the provisions of Section 42(e)(3)(A)(ii)(I) shall not  
18 apply.

19 (d) The term “qualified low-income housing project” as  
20 defined in Section 42(c)(2) of the Internal Revenue Code is  
21 modified by adding the following requirements:

22 (1) The taxpayer shall be entitled to receive a cash distribution  
23 from the operations of the project, after funding required  
24 reserves, that, at the election of the taxpayer, is equal to:

25 (A) An amount not to exceed 8 percent of the lesser of:

26 (i) The owner equity that shall include the amount of the  
27 capital contributions actually paid to the housing sponsor and  
28 shall not include any amounts until they are paid on an investor  
29 note.

30 (ii) Twenty percent of the adjusted basis of the building as of  
31 the close of the first taxable year of the credit period.

32 (B) The amount of the cashflow from those units in the  
33 building that are not low-income units. For purposes of  
34 computing cashflow under this subparagraph, operating costs  
35 shall be allocated to the low-income units using the “floor space  
36 fraction,” as defined in Section 42 of the Internal Revenue Code.

37 (C) Any amount allowed to be distributed under subparagraph  
38 (A) that is not available for distribution during the first five years  
39 of the compliance period may be accumulated and distributed

1 any time during the first 15 years of the compliance period but  
2 not thereafter.

3 (2) The limitation on return shall apply in the aggregate to the  
4 partners if the housing sponsor is a partnership and in the  
5 aggregate to the shareholders if the housing sponsor is an “S”  
6 corporation.

7 (3) The housing sponsor shall apply any cash available for  
8 distribution in excess of the amount eligible to be distributed  
9 under paragraph (1) to reduce the rent on rent-restricted units or  
10 to increase the number of rent-restricted units subject to the tests  
11 of Section 42(g)(1) of the Internal Revenue Code.

12 (e) The provisions of Section 42(f) of the Internal Revenue  
13 Code shall be modified as follows:

14 (1) The term “credit period” as defined in Section 42(f)(1) of  
15 the Internal Revenue Code is modified by substituting “four  
16 taxable years” for “10 taxable years.”

17 (2) The special rule for the first taxable year of the credit  
18 period under Section 42(f)(2) of the Internal Revenue Code shall  
19 not apply to the tax credit under this section.

20 (3) Section 42(f)(3) of the Internal Revenue Code is modified  
21 to read:

22 If, as of the close of any taxable year in the compliance period,  
23 after the first year of the credit period, the qualified basis of any  
24 building exceeds the qualified basis of that building as of the  
25 close of the first year of the credit period, the housing sponsor, to  
26 the extent of its tax credit allocation, shall be eligible for a credit  
27 on the excess in an amount equal to the applicable percentage  
28 determined pursuant to subdivision (c) for the four-year period  
29 beginning with the taxable year in which the increase in qualified  
30 basis occurs.

31 (f) The provisions of Section 42(h) of the Internal Revenue  
32 Code shall be modified as follows:

33 (1) Section 42(h)(2) of the Internal Revenue Code shall not be  
34 applicable and instead the following provisions shall be  
35 applicable:

36 The total amount for the four-year period of the housing credit  
37 dollars allocated in a calendar year to any building shall reduce  
38 the aggregate housing credit dollar amount of the California Tax  
39 Credit Allocation Committee for the calendar year in which the  
40 allocation is made.

(2) Paragraphs (3), (4), (5), (6)(E)(i)(II), (6)(F), (6)(G), (6)(I), (7), and (8) of Section 42(h) of the Internal Revenue Code shall not be applicable to this section.

(g) The aggregate housing credit dollar amount which may be allocated annually by the California Tax Credit Allocation Committee pursuant to this section, Section 12206, and Section 23610.5 shall be an amount equal to the sum of all the following:

(1) Seventy million dollars (\$70,000,000) for the 2001 calendar year, and, for the 2002 calendar year and each calendar year thereafter, seventy million dollars (\$70,000,000) increased by the percentage, if any, by which the Consumer Price Index for the preceding calendar year exceeds the Consumer Price Index for the 2001 calendar year. For the purposes of this paragraph, the term “Consumer Price Index” means the last Consumer Price Index for all urban consumers published by the federal Department of Labor.

(2) The unused housing credit ceiling, if any, for the preceding calendar years.

(3) The amount of housing credit ceiling returned in the calendar year. For purposes of this paragraph, the amount of housing credit dollar amount returned in the calendar year equals the housing credit dollar amount previously allocated to any project that does not become a qualified low-income housing project within the period required by this section or to any project with respect to which an allocation is canceled by mutual consent of the California Tax Credit Allocation Committee and the allocation recipient.

(h) The term “compliance period” as defined in Section 42(i)(1) of the Internal Revenue Code is modified to mean, with respect to any building, the period of 30 consecutive taxable years beginning with the first taxable year of the credit period with respect thereto.

(i) Section 42(j) of the Internal Revenue Code shall not be applicable and the following requirements of this section shall be set forth in a regulatory agreement between the California Tax Credit Allocation Committee and the housing sponsor, which agreement shall be subordinated, when required, to any lien or encumbrance of any banks or other institutional lenders to the project. The regulatory agreement entered into pursuant to subdivision (f) of Section 50199.14 of the Health and Safety

1 Code shall apply, providing the agreement includes all of the  
2 following provisions:

3 (1) A term not less than the compliance period.

4 (2) A requirement that the agreement be filed in the official  
5 records of the county in which the qualified low-income housing  
6 project is located.

7 (3) A provision stating which state and local agencies can  
8 enforce the regulatory agreement in the event the housing  
9 sponsor fails to satisfy any of the requirements of this section.

10 (4) A provision that the regulatory agreement shall be deemed  
11 a contract enforceable by tenants as third-party beneficiaries  
12 thereto and which allows individuals, whether prospective,  
13 present, or former occupants of the building, who meet the  
14 income limitation applicable to the building, the right to enforce  
15 the regulatory agreement in any state court.

16 (5) A provision incorporating the requirements of Section 42  
17 of the Internal Revenue Code as modified by this section.

18 (6) A requirement that the housing sponsor notify the  
19 California Tax Credit Allocation Committee or its designee if  
20 there is a determination by the Internal Revenue Service that the  
21 project is not in compliance with Section 42(g) of the Internal  
22 Revenue Code.

23 (7) A requirement that the housing sponsor, as security for the  
24 performance of the housing sponsor's obligations under the  
25 regulatory agreement, assign the housing sponsor's interest in  
26 rents that it receives from the project, provided that until there is  
27 a default under the regulatory agreement, the housing sponsor is  
28 entitled to collect and retain the rents.

29 (8) The remedies available in the event of a default under the  
30 regulatory agreement that is not cured within a reasonable cure  
31 period, include, but are not limited to, allowing any of the parties  
32 designated to enforce the regulatory agreement to collect all rents  
33 with respect to the project; taking possession of the project and  
34 operating the project in accordance with the regulatory  
35 agreement until the enforcer determines the housing sponsor is in  
36 a position to operate the project in accordance with the regulatory  
37 agreement; applying to any court for specific performance;  
38 securing the appointment of a receiver to operate the project; or  
39 any other relief as may be appropriate.

(j) (1) The committee shall allocate the housing credit on a regular basis consisting of two or more periods in each calendar year during which applications may be filed and considered. The committee shall establish application filing deadlines, the maximum percentage of federal and state low-income housing tax credit ceiling that may be allocated by the committee in that period, and the approximate date on which allocations shall be made. If the enactment of federal or state law, the adoption of rules or regulations or other similar events prevent the use of two allocation periods, the committee may reduce the number of periods and adjust the filing deadlines, maximum percentage of credit allocated, and the allocation dates.

(2) The committee shall adopt a qualified allocation plan, as provided in Section 42(m)(1) of the Internal Revenue Code. In adopting this plan, the committee shall comply with the provisions of Sections 42(m)(1)(B) and 42(m)(1)(C) of the Internal Revenue Code.

(3) Notwithstanding Section 42(m) of the Internal Revenue Code, the California Tax Credit Allocation Committee shall allocate housing credits in accordance with the qualified allocation plan and regulations, which shall include the following provisions:

(A) All housing sponsors, as defined by paragraph (3) of subdivision (a), shall demonstrate at the time the application is filed with the committee that the project meets the following threshold requirements:

(i) The housing sponsor shall demonstrate there is a need and demand for low-income housing in the community or region for which it is proposed.

(ii) The project's proposed financing, including tax credit proceeds, shall be sufficient to complete the project and that the proposed operating income shall be adequate to operate the project for the extended use period.

(iii) The project shall have enforceable financing commitments, either construction or permanent financing, for at least 50 percent of the total estimated financing of the project.

(iv) The housing sponsor shall have and maintain control of the site for the project.



1 (v) The housing sponsor shall demonstrate that the project  
2 complies with all applicable local land use and zoning  
3 ordinances.

4 (vi) The housing sponsor shall demonstrate that the project  
5 development team has the experience and the financial capacity  
6 to ensure project completion and operation for the extended use  
7 period.

8 (vii) The housing sponsor shall demonstrate the amount of tax  
9 credit that is necessary for the financial feasibility of the project  
10 and its viability as a qualified low-income housing project  
11 throughout the extended use period, taking into account operating  
12 expenses, a supportable debt service, reserves, funds set aside for  
13 rental subsidies, and required equity, and a development fee that  
14 does not exceed a specified percentage of the eligible basis of the  
15 project prior to inclusion of the development fee in the eligible  
16 basis, as determined by the committee.

17 (B) The committee shall give a preference to those projects  
18 satisfying all of the threshold requirements of subparagraph (A)  
19 if both of the following apply:

20 (i) The project serves the lowest income tenants at rents  
21 affordable to those tenants.

22 (ii) The project is obligated to serve qualified tenants for the  
23 longest period.

24 (C) In addition to the provisions of subparagraphs (A) and (B),  
25 the committee shall use the following criteria in allocating  
26 housing credits:

27 (i) Projects serving large families in which a substantial  
28 number, as defined by the committee of all residential units is  
29 comprised of low-income units with three—~~and~~ *or* more  
30 bedrooms.

31 (ii) Projects providing single room occupancy units serving  
32 very low income tenants.

33 (iii) Existing projects that are “at risk of conversion,” as  
34 defined by paragraph (4) of subdivision (c).

35 (iv) Projects for which a public agency provides direct or  
36 indirect long-term financial support for at least 15 percent of the  
37 total project development costs or projects for which the owner’s  
38 equity constitutes at least 30 percent of the total project  
39 development costs.

1 (v) Projects that provide tenant amenities not generally  
2 available to residents of low-income housing projects.

3 (4) For purposes of allocating credits pursuant to this section,  
4 the committee shall not give preference to any project by virtue  
5 of the date of submission of its application.

6 (k) Section 42(l) of the Internal Revenue Code shall be  
7 modified as follows:

8 The term “secretary” shall be replaced by the term “California  
9 Franchise Tax Board.”

10 (l) In the case where the credit allowed under this section  
11 exceeds the net tax, the excess credit may be carried over to  
12 reduce the net tax in the following year, and succeeding taxable  
13 years, if necessary, until the credit has been exhausted.

14 (m) A project that received an allocation of a 1989 federal  
15 housing credit dollar amount shall be eligible to receive an  
16 allocation of a 1990 state housing credit dollar amount, subject to  
17 all of the following conditions:

18 (1) The project was not placed in service prior to 1990.

19 (2) To the extent the amendments made to this section by the  
20 Statutes of 1990 conflict with any provisions existing in this  
21 section prior to those amendments, the prior provisions of law  
22 shall prevail.

23 (3) Notwithstanding paragraph (2), a project applying for an  
24 allocation under this subdivision shall be subject to the  
25 requirements of paragraph (3) of subdivision (j).

26 (n) The credit period with respect to an allocation of credit in  
27 1989 by the California Tax Credit Allocation Committee of  
28 which any amount is attributable to unallocated credit from 1987  
29 or 1988 shall not begin until after December 31, 1989.

30 (o) The provisions of Section 11407(a) of Public Law  
31 101-508, relating to the effective date of the extension of the  
32 low-income housing credit, shall apply to calendar years after  
33 1989.

34 (p) The provisions of Section 11407(c) of Public Law  
35 101-508, relating to election to accelerate credit, shall not apply.

36 (q) Any unused credit may continue to be carried forward, as  
37 provided in subdivision (l), until the credit has been exhausted.

38 This section shall remain in effect on and after December 1,  
39 1990, for as long as Section 42 of the Internal Revenue Code,  
40 relating to low-income housing credits, remains in effect.

1 (r) The amendments to this section by the act adding this  
2 subdivision shall apply only to taxable years beginning on or  
3 after January 1, 1994.

4 *SEC. 21. Section 23610.5 of the Revenue and Taxation Code*  
5 *is amended to read:*

6 23610.5. (a) (1) There shall be allowed as a credit against  
7 the “tax” (as defined by Section 23036) a state low-income  
8 housing tax credit in an amount equal to the amount determined  
9 in subdivision (c), computed in accordance with Section 42 of the  
10 Internal Revenue Code of 1986, except as otherwise provided in  
11 this section.

12 (2) “Taxpayer,” for purposes of this section, means the sole  
13 owner in the case of a “C” corporation, the partners in the case of  
14 a partnership, and the shareholders in the case of an “S”  
15 corporation.

16 (3) “Housing sponsor,” for purposes of this section, means the  
17 sole owner in the case of a “C” corporation, the partnership in the  
18 case of a partnership, and the “S” corporation in the case of an  
19 “S” corporation.

20 (b) (1) The amount of the credit allocated to any housing  
21 sponsor shall be authorized by the California Tax Credit  
22 Allocation Committee, or any successor thereof, based on a  
23 project’s need for the credit for economic feasibility in  
24 accordance with the requirements of this section.

25 (A) The low-income housing project shall be located in  
26 California and shall meet either of the following requirements:

27 (i) The project’s housing sponsor has been allocated by the  
28 California Tax Credit Allocation Committee a credit for federal  
29 income tax purposes under Section 42 of the Internal Revenue  
30 Code.

31 (ii) It qualifies for a credit under Section 42(h)(4)(B) of the  
32 Internal Revenue Code.

33 (B) The California Tax Credit Allocation Committee shall not  
34 require fees for the credit under this section in addition to those  
35 fees required for applications for the tax credit pursuant to  
36 Section 42 of the Internal Revenue Code. The committee may  
37 require a fee if the application for the credit under this section is  
38 submitted in a calendar year after the year the application is  
39 submitted for the federal tax credit.

1 (2) (A) The California Tax Credit Allocation Committee shall  
2 certify to the housing sponsor the amount of tax credit under this  
3 section allocated to the housing sponsor for each credit period.

4 (B) In the case of a partnership or an “S” corporation, the  
5 housing sponsor shall provide a copy of the California Tax Credit  
6 Allocation Committee certification to the taxpayer.

7 (C) The taxpayer shall, upon request, provide a copy of the  
8 certification to the Franchise Tax Board.

9 (D) All elections made by the taxpayer pursuant to Section 42  
10 of the Internal Revenue Code shall apply to this section.

11 (E) For buildings located in designated difficult development  
12 areas or qualified census tracts as defined in Section 42(d)(5)(C)  
13 of the Internal Revenue Code, credits may be allocated under this  
14 section in the amounts prescribed in subdivision (c), provided  
15 that the amount of credit allocated under Section 42 of the  
16 Internal Revenue Code is computed on 100 percent of the  
17 qualified basis of the building.

18 (c) Section 42(b) of the Internal Revenue Code shall be  
19 modified as follows:

20 (1) In the case of any qualified low-income building placed in  
21 service by the housing sponsor during 1987, the term “applicable  
22 percentage” means 9 percent for each of the first three years and  
23 3 percent for the fourth year for new buildings (whether or not  
24 the building is federally subsidized) and for existing buildings.

25 (2) In the case of any qualified low-income building that  
26 receives an allocation after 1989 and is a new building not  
27 federally subsidized, the term “applicable percentage” means the  
28 following:

29 (A) For each of the first three years, the percentage prescribed  
30 by the Secretary of the Treasury for new buildings that are not  
31 federally subsidized for the taxable year, determined in  
32 accordance with the requirements of Section 42(b)(2) of the  
33 Internal Revenue Code, in lieu of the percentage prescribed in  
34 Section 42(b)(1)(A).

35 (B) For the fourth year, the difference between 30 percent and  
36 the sum of the applicable percentages for the first three years.

37 (3) In the case of any qualified low-income building that  
38 receives an allocation after 1989 and that is a new building that is  
39 federally subsidized or that is an existing building that is “at risk

1 of conversion,” the term “applicable percentage” means the  
2 following:

3 (A) For each of the first three years, the percentage prescribed  
4 by the Secretary of the Treasury for new buildings that are  
5 federally subsidized for the taxable year.

6 (B) For the fourth year, the difference between 13 percent and  
7 the sum of the applicable percentages for the first three years.

8 (4) For purposes of this section, the term “at risk of  
9 conversion,” with respect to an existing property means a  
10 property that satisfies all of the following criteria:

11 (A) The property is a multifamily rental housing development  
12 in which at least 50 percent of the units receive governmental  
13 assistance pursuant to any of the following:

14 (i) New construction, substantial rehabilitation, moderate  
15 rehabilitation, property disposition, and loan management  
16 set-aside programs, or any other program providing project-based  
17 assistance pursuant to Section 8 of the United States Housing Act  
18 of 1937, Section 1437f of Title 42 of the United States Code, as  
19 amended.

20 (ii) The Below-Market-Interest-Rate Program pursuant to  
21 Section 221(d)(3) of the National Housing Act, Sections  
22 1715l(d)(3) and (5) of Title 12 of the United States Code.

23 (iii) Section 236 of the National Housing Act, Section 1715z-1  
24 of Title 12 of the United States Code.

25 (iv) Programs for rent supplement assistance pursuant to  
26 Section 101 of the Housing and Urban Development Act of 1965,  
27 Section 1701s of Title 12 of the United States Code, as amended.

28 (v) Programs pursuant to Section 515 of the Housing Act of  
29 1949, Section 1485 of Title 42 of the United States Code, as  
30 amended.

31 (vi) The low-income housing credit program set forth in  
32 Section 42 of the Internal Revenue Code, ~~provided that the~~  
33 ~~property is not eligible to receive an allocation of tax exempt~~  
34 ~~private activity mortgage revenue bonds from the California Debt~~  
35 ~~Limit Allocation Committee.~~

36 (B) The restrictions on rent and income levels will terminate  
37 or the federally insured mortgage on the property is eligible for  
38 prepayment anytime ~~in the five calendar years after the year~~  
39 *within five years before or after the date* of application to the  
40 California Tax Credit Allocation Committee.

1 (C) The entity acquiring the property enters into a regulatory  
2 agreement that requires the property to be operated in accordance  
3 with the requirements of this section for a period equal to the  
4 greater of 55 years or the life of the property.

5 (D) The property satisfies the requirements of Section 42(e) of  
6 the Internal Revenue Code regarding rehabilitation expenditures,  
7 except that the provisions of Section 42(e)(3)(A)(ii)(I) shall not  
8 apply.

9 (d) The term “qualified low-income housing project” as  
10 defined in Section 42(c)(2) of the Internal Revenue Code is  
11 modified by adding the following requirements:

12 (1) The taxpayer shall be entitled to receive a cash distribution  
13 from the operations of the project, after funding required  
14 reserves, which, at the election of the taxpayer, shall be equal to:

15 (A) An amount not to exceed 8 percent of the lesser of:

16 (i) The owner equity, which shall include the amount of the  
17 capital contributions actually paid to the housing sponsor and  
18 shall not include any amounts until they are paid on an investor  
19 note.

20 (ii) Twenty percent of the adjusted basis of the building as of  
21 the close of the first taxable year of the credit period.

22 (B) The amount of the cashflow from those units in the  
23 building that are not low-income units. For purposes of  
24 computing cashflow under this subparagraph, operating costs  
25 shall be allocated to the low-income units using the “floor space  
26 fraction,” as defined in Section 42 of the Internal Revenue Code.

27 (C) Any amount allowed to be distributed under subparagraph  
28 (A) that is not available for distribution during the first five years  
29 of the compliance period may accumulate and be distributed at  
30 any time during the first 15 years of the compliance period but  
31 not thereafter.

32 (2) The limitation on return shall apply in the aggregate to the  
33 partners if the housing sponsor is a partnership and in the  
34 aggregate to the shareholders if the housing sponsor is an “S”  
35 corporation.

36 (3) The housing sponsor shall apply any cash available for  
37 distribution in excess of the amount eligible to be distributed  
38 under paragraph (1) to reduce the rent on rent-restricted units or  
39 to increase the number of rent-restricted units subject to the tests  
40 of Section 42(g)(1) of the Internal Revenue Code.

1 (e) The provisions of Section 42(f) of the Internal Revenue  
2 Code shall be modified as follows:

3 (1) The term “credit period” as defined in Section 42(f)(1) of  
4 the Internal Revenue Code is modified by substituting “four  
5 taxable years” for “10 taxable years.”

6 (2) The special rule for the first taxable year of the credit  
7 period under Section 42(f)(2) of the Internal Revenue Code shall  
8 not apply to the tax credit under this section.

9 (3) Section 42(f)(3) of the Internal Revenue Code is modified  
10 to read:

11 If, as of the close of any taxable year in the compliance period,  
12 after the first year of the credit period, the qualified basis of any  
13 building exceeds the qualified basis of that building as of the  
14 close of the first year of the credit period, the housing sponsor, to  
15 the extent of its tax credit allocation, shall be eligible for a credit  
16 on the excess in an amount equal to the applicable percentage  
17 determined pursuant to subdivision (c) for the four-year period  
18 beginning with the later of the taxable years in which the increase  
19 in qualified basis occurs.

20 (f) The provisions of Section 42(h) of the Internal Revenue  
21 Code shall be modified as follows:

22 (1) Section 42(h)(2) of the Internal Revenue Code shall not be  
23 applicable and instead the following provisions shall be  
24 applicable:

25 The total amount for the four-year credit period of the housing  
26 credit dollars allocated in a calendar year to any building shall  
27 reduce the aggregate housing credit dollar amount of the  
28 California Tax Credit Allocation Committee for the calendar year  
29 in which the allocation is made.

30 (2) Paragraphs (3), (4), (5), (6)(E)(i)(II), (6)(F), (6)(G), (6)(I),  
31 (7), and (8) of Section 42(h) of the Internal Revenue Code shall  
32 not be applicable.

33 (g) The aggregate housing credit dollar amount that may be  
34 allocated annually by the California Tax Credit Allocation  
35 Committee pursuant to this section, Section 12206, and Section  
36 17058 shall be an amount equal to the sum of all the following:

37 (1) Seventy million dollars (\$70,000,000) for the 2001  
38 calendar year, and, for the 2002 calendar year and each calendar  
39 year thereafter, seventy million dollars (\$70,000,000) increased  
40 by the percentage, if any, by which the Consumer Price Index for

1 the preceding calendar year exceeds the Consumer Price Index  
2 for the 2001 calendar year. For the purposes of this paragraph,  
3 the term “Consumer Price Index” means the last Consumer Price  
4 Index for all urban consumers published by the federal  
5 Department of Labor.

6 (2) The unused housing credit ceiling, if any, for the preceding  
7 calendar years.

8 (3) The amount of housing credit ceiling returned in the  
9 calendar year. For purposes of this paragraph, the amount of  
10 housing credit dollar amount returned in the calendar year equals  
11 the housing credit dollar amount previously allocated to any  
12 project that does not become a qualified low-income housing  
13 project within the period required by this section or to any project  
14 with respect to which an allocation is canceled by mutual consent  
15 of the California Tax Credit Allocation Committee and the  
16 allocation recipient.

17 (h) The term “compliance period” as defined in Section  
18 42(i)(1) of the Internal Revenue Code is modified to mean, with  
19 respect to any building, the period of 30 consecutive taxable  
20 years beginning with the first taxable year of the credit period  
21 with respect thereto.

22 (i) Section 42(j) of the Internal Revenue Code shall not be  
23 applicable and the following shall be substituted in its place:

24 The requirements of this section shall be set forth in a  
25 regulatory agreement between the California Tax Credit  
26 Allocation Committee and the housing sponsor, and this  
27 agreement shall be subordinated, when required, to any lien or  
28 encumbrance of any banks or other institutional lenders to the  
29 project. The regulatory agreement entered into pursuant to  
30 subdivision (f) of Section 50199.14 of the Health and Safety  
31 Code shall apply, provided that the agreement includes all of the  
32 following provisions:

33 (1) A term not less than the compliance period.

34 (2) A requirement that the agreement be filed in the official  
35 records of the county in which the qualified low-income housing  
36 project is located.

37 (3) A provision stating which state and local agencies can  
38 enforce the regulatory agreement in the event the housing  
39 sponsor fails to satisfy any of the requirements of this section.



1 (4) A provision that the regulatory agreement shall be deemed  
2 a contract enforceable by tenants as third-party beneficiaries  
3 thereto, and that allows individuals, whether prospective, present,  
4 or former occupants of the building, who meet the income  
5 limitation applicable to the building the right to enforce the  
6 regulatory agreement in any state court.

7 (5) A provision incorporating the requirements of Section 42  
8 of the Internal Revenue Code as modified by this section.

9 (6) A requirement that the housing sponsor notify the  
10 California Tax Credit Allocation Committee or its designee if  
11 there is a determination by the Internal Revenue Service that the  
12 project is not in compliance with Section 42(g) of the Internal  
13 Revenue Code.

14 (7) A requirement that the housing sponsor, as security for the  
15 performance of the housing sponsor's obligations under the  
16 regulatory agreement, assign the housing sponsor's interest in  
17 rents that it receives from the project, provided that until there is  
18 a default under the regulatory agreement, the housing sponsor is  
19 entitled to collect and retain the rents.

20 (8) A provision that the remedies available in the event of a  
21 default under the regulatory agreement that is not cured within a  
22 reasonable cure period include, but are not limited to, allowing  
23 any of the parties designated to enforce the regulatory agreement  
24 to collect all rents with respect to the project; taking possession  
25 of the project and operating the project in accordance with the  
26 regulatory agreement until the enforcer determines the housing  
27 sponsor is in a position to operate the project in accordance with  
28 the regulatory agreement; applying to any court for specific  
29 performance; securing the appointment of a receiver to operate  
30 the project; or any other relief as may be appropriate.

31 (j) (1) The committee shall allocate the housing credit on a  
32 regular basis consisting of two or more periods in each calendar  
33 year during which applications may be filed and considered. The  
34 committee shall establish application filing deadlines, the  
35 maximum percentage of federal and state low-income housing  
36 tax credit ceiling that may be allocated by the committee in that  
37 period, and the approximate date on which allocations shall be  
38 made. If the enactment of federal or state law, the adoption of  
39 rules or regulations, or other similar events prevent the use of  
40 two allocation periods, the committee may reduce the number of

1 periods and adjust the filing deadlines, maximum percentage of  
2 credit allocated, and allocation dates.

3 (2) The committee shall adopt a qualified allocation plan, as  
4 provided in Section 42(m)(1) of the Internal Revenue Code. In  
5 adopting this plan, the committee shall comply with the  
6 provisions of Sections 42(m)(1)(B) and 42(m)(1)(C) of the  
7 Internal Revenue Code.

8 (3) Notwithstanding Section 42(m) of the Internal Revenue  
9 Code, the California Tax Credit Allocation Committee shall  
10 allocate housing credits in accordance with the qualified  
11 allocation plan and regulations, which shall include the following  
12 provisions:

13 (A) All housing sponsors, as defined by paragraph (3) of  
14 subdivision (a), shall demonstrate at the time the application is  
15 filed with the committee that the project meets the following  
16 threshold requirements:

17 (i) The housing sponsor shall demonstrate that there is a need  
18 for low-income housing in the community or region for which it  
19 is proposed.

20 (ii) The project's proposed financing, including tax credit  
21 proceeds, shall be sufficient to complete the project and shall be  
22 adequate to operate the project for the extended use period.

23 (iii) The project shall have enforceable financing  
24 commitments, either construction or permanent financing, for at  
25 least 50 percent of the total estimated financing of the project.

26 (iv) The housing sponsor shall have and maintain control of  
27 the site for the project.

28 (v) The housing sponsor shall demonstrate that the project  
29 complies with all applicable local land use and zoning  
30 ordinances.

31 (vi) The housing sponsor shall demonstrate that the project  
32 development team has the experience and the financial capacity  
33 to ensure project completion and operation for the extended use  
34 period.

35 (vii) The housing sponsor shall demonstrate the amount of tax  
36 credit that is necessary for the financial feasibility of the project  
37 and its viability as a qualified low-income housing project  
38 throughout the extended use period, taking into account operating  
39 expenses, a supportable debt service, reserves, funds set aside for  
40 rental subsidies, and required equity, and a development fee that

1 does not exceed a specified percentage of the eligible basis of the  
2 project prior to inclusion of the development fee in the eligible  
3 basis, as determined by the committee.

4 (B) The committee shall give a preference to those projects  
5 satisfying all of the threshold requirements of subparagraph (A)  
6 if both of the following apply:

7 (i) The project serves the lowest income tenants at rents  
8 affordable to those tenants.

9 (ii) The project is obligated to serve qualified tenants for the  
10 longest period.

11 (C) In addition to the provisions of subparagraphs (A) and (B),  
12 the committee shall use the following criteria in allocating  
13 housing credits:

14 (i) Projects serving large families in which a substantial  
15 number, as defined by the committee, of all residential units are  
16 low-income units with three and more bedrooms.

17 (ii) Projects providing single-room occupancy units serving  
18 very low income tenants.

19 (iii) Existing projects that are “at risk of conversion,” as  
20 defined by paragraph (4) of subdivision (c).

21 (iv) Projects for which a public agency provides direct or  
22 indirect long-term financial support for at least 15 percent of the  
23 total project development costs or projects for which the owner’s  
24 equity constitutes at least 30 percent of the total project  
25 development costs.

26 (v) Projects that provide tenant amenities not generally  
27 available to residents of low-income housing projects.

28 (4) For purposes of allocating credits pursuant to this section,  
29 the committee shall not give preference to any project by virtue  
30 of the date of submission of its application except to break a tie  
31 when two or more of the projects have an equal rating.

32 (5) Not less than 20 percent of the low-income housing tax  
33 credits available annually under this section, Section 12206, and  
34 Section 17058 shall be set aside for allocation to rural areas as  
35 defined in Section 50199.21 of the Health and Safety Code. Any  
36 amount of credit set aside for rural areas remaining on or after  
37 October 31 of any calendar year shall be available for allocation  
38 to any eligible project. No amount of credit set aside for rural  
39 areas shall be considered available for any eligible project so

1 long as there are eligible rural applications pending on October  
2 31.

3 (k) Section 42(l) of the Internal Revenue Code shall be  
4 modified as follows:

5 The term “secretary” shall be replaced by the term “California  
6 Franchise Tax Board.”

7 (l) In the case where the state credit allowed under this section  
8 exceeds the “tax,” the excess may be carried over to reduce the  
9 “tax” in the following year, and succeeding years if necessary,  
10 until the credit has been exhausted.

11 (m) A project that received an allocation of a 1989 federal  
12 housing credit dollar amount shall be eligible to receive an  
13 allocation of a 1990 state housing credit dollar amount, subject to  
14 all of the following conditions:

15 (1) The project was not placed in service prior to 1990.

16 (2) To the extent the amendments made to this section by the  
17 Statutes of 1990 conflict with any provisions existing in this  
18 section prior to those amendments, the prior provisions of law  
19 shall prevail.

20 (3) Notwithstanding paragraph (2), a project applying for an  
21 allocation under this subdivision shall be subject to the  
22 requirements of paragraph (3) of subdivision (j).

23 (n) The credit period with respect to an allocation of credit in  
24 1989 by the California Tax Credit Allocation Committee of  
25 which any amount is attributable to unallocated credit from 1987  
26 or 1988 shall not begin until after December 31, 1989.

27 (o) The provisions of Section 11407(a) of Public Law  
28 101-508, relating to the effective date of the extension of the  
29 low-income housing credit, shall apply to calendar years after  
30 1989.

31 (p) The provisions of Section 11407(c) of Public Law  
32 101-508, relating to election to accelerate credit, shall not apply.

33 (q) (1) A corporation may elect to assign any portion of any  
34 credit allowed under this section to one or more affiliated  
35 corporations for each taxable year in which the credit is allowed.  
36 For purposes of this subdivision, “affiliated corporation” has the  
37 meaning provided in subdivision (b) of Section 25110, as that  
38 section was amended by Chapter 881 of the Statutes of 1993, as  
39 of the last day of the taxable year in which the credit is allowed,  
40 except that “100 percent” is substituted for “more than 50

percent” wherever it appears in the section, as that section was amended by Chapter 881 of the Statutes of 1993, and “voting common stock” is substituted for “voting stock” wherever it appears in the section, as that section was amended by Chapter 881 of the Statutes of 1993.

(2) The election provided in paragraph (1):

(A) May be based on any method selected by the corporation that originally receives the credit.

(B) Shall be irrevocable for the taxable year the credit is allowed, once made.

(C) May be changed for any subsequent taxable year if the election to make the assignment is expressly shown on each of the returns of the affiliated corporations that assign and receive the credits.

(r) Any unused credit may continue to be carried forward, as provided in subdivision (k), until the credit has been exhausted.

This section shall remain in effect on or after December 1, 1990, for as long as Section 42 of the Internal Revenue Code, relating to low-income housing credits, remains in effect.

(s) The amendments to this section made by the act adding this subdivision shall apply only to taxable years beginning on or after January 1, 1994, except that paragraph (1) of subdivision (q), as amended, shall apply to taxable years beginning on or after January 1, 1993.

~~SEC. 21.~~

SEC. 22. It is the intent of the Legislature that the regulations adopted by the Department of Housing and Community Development to implement and interpret the changes to Section 18552 of the Health and Safety Code enacted by this act be deemed to be editorial changes pursuant to the Administrative Procedure Act (Chapter 3.5 (commencing with Section 11340) of the Government Code), if they are amendments, repeals, or adoptions that are substantially the same in content as the changes to that section enacted by this act.

SEC. 23. *The changes to Section 65583 of the Government Code proposed by Section 2 of this bill shall not become operative if (1) AB 2634 or SB 1322 is enacted and becomes effective on or before January 1, 2007, (2) either bill amends Section 65583 of Government Code, and (3) this bill is enacted after either AB 2634 or SB 1322.*

1     *SEC. 24. The changes to Section 65583.2 of the Government*  
2     *Code proposed by Section 4 of this bill shall not become*  
3     *operative if (1) SB 1322 is enacted and becomes effective on or*  
4     *before January 1, 2007, (2) this bill and SB 1322 amend Section*  
5     *65583.2 of Government Code, and (3) this bill is enacted after SB*  
6     *1322.*

7     *SEC. 25. The changes to Section 17021.6 of the Health and*  
8     *Safety Code proposed by Section 7 of this bill shall not become*  
9     *operative if (1) SB 1802 is enacted and becomes effective on or*  
10    *before January 1, 2007, (2) this bill and SB 1802 amend Section*  
11    *17021.6 of Health and Safety Code, and (3) this bill is enacted*  
12    *after SB 1802.*